

PUBLIC VERSION

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC,
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

REPLY OF
COLORADO PUBLIC UTILITIES COMMISSION

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The Public Utilities Commission of the State of Colorado ("CPUC"), by and through the Colorado Attorney General, hereby submits its reply to the petition for declaratory order filed by East West Resort Transportation, LLC and TMS, LLC d/b/a Colorado Mountain Express ("CME"). In opposing CME's petition, CPUC relies upon the attached verified statements of Messrs. Gary Gramlick and Dino Ioannides, both employees of the CPUC; the attached discovery responses, deposition excerpts, and letter opinions; and the following statement of facts and arguments. CPUC, as set forth in detail below, opposes the relief sought by CME.

FACTUAL BACKGROUND

CPUC, as noted by CME, has jurisdiction over passenger transportation by motor carrier for hire when such transportation is provided intrastate commerce. CPUC is the constitutionally empowered state agency with the authority to regulate public utilities in the State of Colorado. See, COLO. CONST. art. XXV (all power to regulate the facilities, service and rates of public utilities is vested in the CPUC); § 40-1-103(1)(a), C.R.S. (the term "public utility" includes common carriers); § 40-1-102(3)(a), C.R.S. ("common carrier" includes every person directly or indirectly affording a means of transportation within Colorado by motor vehicle by accepting and carrying passengers for compensation); Miller Bros. v. Public Utilities Comm'n, 525 P.2d 443 (Colo. 1974) (a common carrier is a public utility subject to CPUC jurisdiction). The CPUC's power over common carriers derives from both Article XXV of the Colorado Constitution and title 40 of the Colorado Revised Statutes, and especially article 10 of title 40.

The Public Utilities Law of Colorado related to the regulation of common carriers (§ 40-10-101, C.R.S. et seq.) sets forth the familiar rules and standards of operation. For shuttle vans transporting persons, such as those operated by CME, the doctrine of regulated monopoly remains applicable. Yellow Cab Co-op Ass'n v. Public Utilities Comm'n, 869 P.2d 545, 548 (Colo. 1994). In Colorado, the doctrine of regulated monopoly stands for the proposition that a new market entrant will not be permitted to commence operations in the same service territory absent a showing that the service provided by the existing motor carrier is substantially inadequate. Boulder Airporter, Inc. v. Rocky Mountain Shuttlines,

Inc., 918 P.2d 1118, 1121 (Colo. 1996). The CPUC's exercise of its regulatory power over common carriers is primarily to serve the public interest. McKay v. Public Utilities Comm'n, 91 P.2d 965, 971 (Colo. 1939). If the CPUC is to exercise its power and obligation to regulate common carrier services, it must assume that authority necessary to carry out its duties. Section 40-3-102, C.R.S.; Mountain States Tel & Tel. Co. v. Public Utilities Comm'n, 576 P.2d 544, 547 (Colo. 1978) (CPUC has "broadly based authority to do whatever it deems necessary or convenient to accomplish the legislative functions delegated to it."). If a carrier is circumventing the above requirements, the CPUC may impose a civil penalty. Section 40-7-113, C.R.S.

In assessing civil penalties, however, the CPUC's authority is limited by state and federal law. By statute, the CPUC may not regulate interstate commerce. See § 40-7-111, C.R.S. (2003) ("None of the provisions of articles 1 to 7 of this title . . . shall apply . . . to commerce among the several states. . ."). The CPUC recognizes that the authority to regulate interstate commerce rests with the federal government and that competing state regulation can be preempted by federal regulation. In the penalty assessment that underlies this proceeding, the CPUC is merely exercising its power to regulate an intrastate motor carrier that it has licensed. See § 40-10-102, C.R.S. (charging CPUC to regulate common carriers and declaring them "to be affected with a public interest"). Such exercise of power is necessary to fulfill the CPUC's duty to protect the health and safety of the public who ride these carriers and share Colorado's highways with them. Public Utilities Comm'n v. Weicker Transp. Co., 78 P.2d 633, 636 (Colo. 1938).

Over the years, CME has taken full advantage of these protections afforded it by Colorado law and has established itself as the only major carrier authorized to conduct scheduled operations between two of Colorado's airports, Denver International Airport ("DEN) and Eagle County Regional Airport ("EGE"), on the one hand, and, on the other hand, Colorado's major ski resort towns. CME has a virtual monopoly in the transport of this passenger traffic by shuttle van or other means of scheduled common carriage.¹

Moreover, as explained in the attached Verified Statement of Gary Gramlick, CME has continued to make rate schedule, time schedule, route change and intervention filings at the CPUC subsequent to both the issuance of the CPUC civil penalty assessment and the action commenced at this Board. Thus, CME, up until its sudden declaration in the underlying CPUC civil penalty assessment proceeding, had rarely, if ever, questioned the authority of the CPUC over it. From the CPUC's perspective, everything indicates that CME was, in 2003, and still is, actively operating the scheduled portions of its CPUC certificate of public convenience and necessity.

In addition, while CME was amassing its broad intrastate authority issued by the CPUC, CME also acquired numerous regular route federal operating authorities. These operating authorities authorize CME to provide passenger service over interstate routes. They also permit CME to provide passenger service under specially limited circumstances:

¹ To the extent that CME claims it has competition from the wholly unregulated car rental car industry, neither the CPUC nor this Board can assist in CME's effort to even the playing field until either the federal or state statutes that define the extent of their respective regulatory authority are amended.

CONDITION: The carrier is authorized to provide intrastate passenger transportation service under this certificate *only* if the carrier also provides substantial regularly scheduled interstate passenger transportation service on the same route.

This condition has its genesis in 49 U.S.C. § 13902(b)(3) (2003) and closely tracks the language.²

Specifically turning to the CPUC civil penalty assessment notice that underlies this proceeding, CPUC believes that the assessment notice has been mischaracterized by CME. The statute that CPUC Staff alleges was violated by CME on September 29 and 30, 2003 provides: "It is unlawful for any motor vehicle carrier to carry or advertise that it will carry any persons at rates different from those it has on file with the [CPUC] for such carriage." As CME was aware prior to the commencement of the related litigation in the United States District Court for the District of Colorado, CPUC Staff's evidence consisted of a failure to advertise the same rates as were then on file with the CPUC. CPUC Staff, as CME was also aware, was not charging CME with having carried passengers at these rates and had no evidence as to which rate (the rate on file at the CPUC or the rate advertised on CME's website) CME had been collecting from its passengers. In actuality, therefore, CPUC Staff was merely alleging in its civil penalty assessment that CME had failed to notice the CPUC

² The language of section 13902(b)(3) is as follows:

Intrastate transportation by interstate carriers.--A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

of the rates it desired to advertise for its various scheduled service routes. Additional detail regarding the CPUC Staff's allegations is set forth at ¶¶ 7-10 of the Verified Statement of Gary Gramlick.

ARGUMENT

I. Because this is a declaratory order proceeding, the Board must apply the law as it existed in 2003 to the facts presented so that the ruling in this proceeding shall be binding as to only CME.

This matter is an action brought pursuant to 5 U.S.C. § 554(e), wherein the law provides that this Board “may issue a declaratory order to terminate a controversy or remove uncertainty.” This Board should therefore make only a limited determination based on the record before it, and should not make the radical departure from the longstanding and oft-cited test for proving *bona fide* and substantial interstate service as requested by CME. CPUC believes that a notice and comment proceeding is required if the Board desires to amend the controlling test announced in the Funbus Systems cases (see Funbus Systems, Inc. v. California Public Utilities Comm’n, 801 F.2d 1120 (9th Cir. 1986), on remand, Funbus Systems, Inc. ICC Nos. MC-C-10917, MC-153325 (Sub. No. 2), and MC-C-10943, 1987 WL 100200 (Dec. 30, 1987)) nearly 20 years ago should no longer be followed, especially in view of the absence of recent changes to federal law that might affect the test.

II. The only declaratory orders that should enter are declarations that (A) 49 USC § 14501 does not preempt the pending CPUC’s enforcement action against CME, and (B) the CPUC should be permitted to regulate its licensees regardless of whether that licensee also holds an operating authority issued by this federal agency (or its predecessors).

A. Section 49 U.S.C. 14501(a) does not preempt the pending CPUC's enforcement action against CME.

CPUC accepts that the Board has broad authority pursuant to 5 U.S.C. § 554(e) to resolve controversies; however, Congress has also, through its legislative history, cautioned this Board against involving itself in motor carrier disputes, such as this one, that are related to operations. Specifically, the legislative history of the Interstate Commerce Commission Termination Act of 1995 provides, with respect to dispute resolution:

The Committee [on Transportation and Infrastructure] does not believe that DOT should allocate scarce resources to resolving these essentially private disputes, and specifically directs that DOT should not continue the dispute resolution functions in the[] areas [in which the ICC resolved disputes].

H.Rep. No. 104-311, reprinted in 1995 U.S. Code Cong. & Ad. News 793, 799-800. CPUC urges the Board to consider this cautionary statement in reaching its conclusion in this declaratory order proceeding.

At the heart of this matter is the preemptive scope of 49 U.S.C. § 14501(a). CME's framing of the preemption issue in this proceeding in terms of "whether the authority of the CPUC to regulate the rates which CME lawfully may assess," see CME Petition at 1-2, however, is purely hypothetical and presents a case which is not in controversy. The issue raised by CME is not applicable to the CPUC Staff's underlying notice of civil penalty assessment. CPUC Staff's civil penalty assessment allegation is more accurately described as whether the authority of the CPUC to require notice of rate changes is preempted by 49 U.S.C. § 14501(a)(1) (2003).

In pertinent part, 49 U.S.C. § 14501 (2003) provides:

- (a) **Motor carriers of passengers.** (1) Limitation on State law.
No State or political subdivision thereof . . . shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to –
- (A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;
 - (B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required.

This version of the statute, which version was the law in 2003, unambiguously provides that “rate” schedules may be required by a State so long as the notice requirement does not exceed 30 days. The ability of a State to require that an interstate carrier submit schedule of rates is no longer obscured by the lack of statutory clarity that existed in the prior version of 49 U.S.C. § 14501(a), which version is quoted at p.6 of CME’s petition.³

In fact, CPUC agrees with CME’s argument (p. 6 of its petition for declaratory order) that 49 U.S.C. § 14501 preempts the regulation of the rate charged using cost studies; however the facts of the underlying CPUC civil penalty assessment do not attempt to regulate CME’s rates in a proscribed way. In the underlying civil penalty enforcement

³ The applicable text of 49 U.S.C. § 14501 also no longer squares with the Board’s interpretation of this provision that was set forth in its approval of CME’s merger (STB Docket No. MC-F-20902, Colorado Mountain Express, Inc. and Airport Shuttle Colorado, Inc. d/b/a Aspen Limousine Service, Inc. – Consolidation and Merger – Colorado Mountain Express, served February 28, 1997) and quoted at page 7 of CME’s petition for declaratory order.

proceeding, the Staff of the CPUC has alleged only that CME failed to provide 30 days' notice to the CPUC and the public of the rates that it intended to charge upon the expiration of the notice period. Because CME holds a CPUC issued operating certificate, CPUC has grounds to enforce this particular regulation even if CME is determined to be a motor carrier subject to this Board's jurisdiction as to its regular route operations.

As the CPUC's civil penalty enforcement action is authorized under 49 U.S.C. § 14501, there is no case or controversy under federal law for which a declaratory order is either necessary or appropriate. This matter should be promptly dismissed, so that the stay of CPUC's pending civil penalty assessment proceeding can be lifted.

B. The CPUC should be permitted to regulate its licensees regardless of whether that licensee also holds an operating authority issued by this federal agency (or its predecessors).

CME possesses a CPUC issued operating authority. CME's periodic filings at the CPUC demonstrate that CME actively operated its Colorado-issued operating authority both in the several years preceding 2003, during 2003 when the instant dispute arose, and in 2004 and 2005, subsequent to commencement of the CPUC's enforcement proceeding and this action before this Board. See Verified Statement of Gary Gramlick.

On balance, considering the existence of CPUC issued operating authority, it must be presumed that CPUC has jurisdiction to adjudicate claims related to operations allegedly performed by a state licensed carrier in contravention of Colorado law. CME should not be

permitted to hide behind its federally-issued operating authorities to avoid CPUC enforcement actions while actively protecting its interests at the CPUC.

A finding that CPUC's enforcement action should be permitted to proceed will not have the eviscerating effect ascribed to it by CME (see pages 8-9 of CME's petition). To the contrary, allowing the CPUC to maintain its enforcement action would not undo this Board's authority to issue decisions regarding the merger of entities holding interstate operating authorities. The Board's series of merger decisions involving CME (see e.g., Exhibits 8 and 9 to CME's document appendix) have all been acknowledged by the CPUC. Significantly, the CPUC has modified CME's intrastate certificate of public convenience and necessity in accordance with each of these STB decisions pursuant to applications filed at the CPUC by CME. See Verified Statement of Gary Gramlick, at ¶ 12. If such dual regulation of CME's interstate and intrastate operations has worked adequately in the past, there is no reason to believe that it will not work adequately in the future.

In short, the federal transportation law does not preclude a motor carrier of passengers from possessing and simultaneously actively operating both a federal and state operating authority; however, the motor carrier must be cognizant of the dual regulatory oversight that necessarily results from voluntarily obtaining operating rights subject to different regulatory schemes. As noted by the Colorado Supreme Court in *Trans Shuttle, Inc. v. Public Utilities Commission*, 89 P.3d 398 (Colo. 2004), the mere existence of the federal authority does not preclude the CPUC from exercising non-preempted authority over the carrier. It cannot be reasonably argued that the scope of authority CPUC seeks to assert over CME is preempted

by federal law while CME continues to take advantage of the monopoly protections afforded it by Colorado law.⁴

III. Because CME has failed to demonstrate that a “substantial” number of the passengers it transported in 2003 were transported in actual and bona fide interstate commerce along the authorized regular routes, CME is not permitted to simultaneously provide transportation to passengers in intrastate commerce over the same route pursuant to its federal authority.

If the Board elects to address the merits of CME’s petition for declaratory order, the Board must conclude that CME has failed to demonstrate that it provides sufficient actual and bona fide interstate scheduled service to passengers in interstate commerce so as to permit it to provide intrastate passenger transportation service to passengers over the same route.

A. The controlling legal standard

It is important to note, at the outset, that an analysis of the interstate nature of passenger transportation operations is different from the analysis applicable with respect to the operations of property carriers. The intention of the passenger to continue or complete an interstate journey is not the determining factor. Funbus Systems, Inc. – Intrastate Operations – Petition for Declaratory Order, 133 M.C.C. 406, 421 (1984).

⁴ If the Board determines that the CPUC regulatory authority over CME has been preempted in all material respects, then it must follow that CME must not be permitted to retain its Colorado operating authority for scheduled service and the monopoly protections afforded thereby.

Many federal courts and agencies, including the Tenth Circuit Court of Appeals and the ICC have considered the issue of when intrastate passenger transportation services can be provided under a federal operating authority consistent with the standard certificate condition requiring substantial interstate services along the same route. These federal courts and agencies have uniformly determined that intrastate transportation of passengers pursuant to a federal regular route operating authority is only authorized if the motor carrier also performs interstate service subject to certain criteria. As a result of these decisions it is well settled that the interstate service must (a) be a regularly scheduled service; (b) be actual; (c) be bona fide; (d) involve service in more than one state; and (e) be "substantial" in relation to the intrastate service provided. See Funbus Systems, Inc. v. California Public Utilities Comm'n, 801 F.2d 1120 (9th Cir. 1986), on remand, Funbus Systems, Inc., ICC Nos. MC-C-10917, MC-153325 (Sub. No. 2), and MC-C-10943, 1987 WL 100200 (Dec. 30, 1987) ("Funbus Systems Remand I"); Airporter of Colorado, Inc. v. Interstate Commerce Comm'n, 866 F.2d 1238 (10th Cir. 1989); and Boulder Airporter, Inc. v. Stapleton Stagecoach, ICC No. MC-C-30175, 8 I.C.C.2d 553, 1992 WL 113530 (May 22, 1992). Congress required that the interstate service be actively conducted if intrastate operations are to be lawful. Boulder Airporter, Inc., 8 I.C.C.2d 553 ("[t]he mere holding out to provide service in interstate commerce is not substantial, bona fide, and actual service, within the meaning of [former 49 U.S.C. § 10922(c)(2), now codified as amended at 49 U.S.C. § 13902(b)(3)]"); Informal Opinion of the Secretary of the ICC, Control No. 274-93 (December 1, 1993) (and attached as

Exhibit 1 to this Brief).⁵ Also, the "interstate traffic must be substantial *in relation* to the intrastate traffic in that same operation. Airporter of Colorado, 866 F.2d at 1241 (citing Funbus Systems Remand I). The Colorado Supreme Court also recently reached the same conclusions. Trans Shuttle v. Public Utilities Comm'n, 89 P.3d at 405.

Moreover, the Federal Highway Administration ("FHWA") recited this test in its informal opinion of April 1, 1997, which opinion pertained in part to CME. That informal opinion states that "a carrier [operating pursuant to the condition set forth in the relevant FMCSA certificates (quoted above in the Factual Background section)] that does not provide bona fide, regularly scheduled interstate transportation on the intrastate route does not possess FHWA authorization to conduct intrastate operations." Informal Opinion of the FHWA (April 1, 1997) (Exhibit 2 to this Brief). This informal opinion went on to discuss how transportation within a single state may qualify as being within interstate commerce:

The remaining issue concerns the nature of single state transportation of passengers to and from airports. The ICC has long required the existence of a through ticketing arrangement or other common arrangement with a connecting out-of-state carrier in order to find that a single state transportation segment was part of an interstate movement. United States v. Yellow Cab, 332 U.S. 218 (1947), Motor Transportation of Passengers Incidental to Air, 95 M.C.C. 526 (1964), Pennsylvania Public Utilities Commission v. United States, 812 F.2d 8 (D.C. Cir. 1987), and Portland Airport Limousine Company – Petition for Declaratory Order, 118 M.C.C. 45 (1973).

⁵ Administrative agency opinion letters not reached as a result of hearing adversary proceedings, "while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." Skidmore v. Swift & Co., 323 U.S. 134, 140 (1944){ TA \1 "Skidmore v. Swift & Co., 323 U.S. 134 (1944)" \s "Skidmore" \c 1 }.

This through ticketing/common arrangement test is favorably stated in another matter involving CME's long-distance intrastate shuttle service. In Aspen Limousine Service, Inc. v. Colorado Mountain Exp., Inc., 919 F.Supp. 371 (D. Colo. 1996), the district court judge twice recited his belief that CME might be providing service in accordance with the terms of its federal certificates if, as a carrier engaged in operations within a single state, CME was transporting substantial interstate passengers "pursuant to through ticketing or common arrangements between CME and at least one airline." Id. at 373, 376. See also, Minnesota Department of Transportation – Petition for Declaratory Order – Operations of Rochester Limousine Service, Inc., I.C.C. No. MC-C-30225, 1995 WL 123850, *4 (March 24, 1995) ("We note that transportation entirely within a single state, including from and to an airport, can be interstate commerce if certain characteristics are met. See United States v. Yellow Cab Co., 332 U.S. 218 (1947), Motor Transp. of Passengers Incidental to Air, 95 M.C.C. 526 (1964), and Pennsylvania Public Utility Com'n v. U.S., 812 F.2d 8 (D.C. Cir. 1987). If a carrier in a single-state movement is engaged in through ticketing arrangements or other common arrangements with a connecting out-of-state carrier, passengers moving in the single-state operation under those arrangements to or from an out-of-state point are in interstate commerce.").

Even in Funbus Systems, Inc. – Intrastate Operations – Petition for Declaratory Order, 1988 Fed. Car. Case ¶ 37536 n.3, 1988 WL 225225 (decided August 11, 1988) (Funbus Systems Remand II), a case heavily relied on by CME for the contrary position, the ICC pointed out that the motor carrier (which was performing an airport oriented service not

dissimilar to CME's) might have demonstrated compliance with its federal operating authority if it provided evidence of through ticketing or other common arrangements involving air carriers. Specifically, the ICC stated:

Lounge Car has no other through operations [apart from its common arrangement with Greyhound, Inc.] For example it has no through ticketing or common arrangements involving air carriers in connection with its service at LAX. If Lounge Car had such an arrangement it could have established, for example through a survey, that its passengers moved in the connecting air carrier's service to and from points beyond California, and thus qualified as interstate passengers.

Id.

Much more recently, the U.S. Department of Transportation, in a letter from Secretary of Transportation Norman Mineta to Congressman Robert Andrews advocated that the "judicial and interpretive precedents . . . recognize the use of through-ticketing or arrangements between passenger carriers as the essential determinant of whether a for-hire motor carrier of passengers operating within the boundaries of a single State is engaged in interstate commerce." See Exhibit 3 (letter dated 6/10/03) and Exhibit 4 (executive summary letter dated 6/23/03).

With respect to the substantiality requirement, the Board should follow the guidelines established in two decisions of the ICC. First, the ICC ruled in Funbus Systems, Inc. – Intrastate Operations – Petition for Declaratory Order, 1988 WL 225225 (decided August 11, 1988) (Funbus Systems Remand II), that a showing that only ¼ of one percent of the carrier's traffic was transported in interstate commerce could not "be characterized as substantial." Second, the ICC ruled in Collins Coaches Ltd. Common Carrier Application,

1990 Fed.Car.Cas. ¶ 37,781, 1989 WL 246961 (decided December 5, 1989), that a showing of a 24% to 28% ratio of interstate to total passengers was in fact “substantial” over the routes in question.

Further, to meet the five-part test announced in the Funbus Systems decisions, it is beyond dispute that the federally licensed motor carrier has the burden to support its claim that it operates in compliance with its federal certificate. The ICC explained how this burden is to be met:

A carrier should submit evidence that over a reasonable period of time it has carried a substantial number of passengers in interstate commerce in the operation. It may rely on traffic studies or data of a similarly specific nature to show the number of interstate passengers. It must show that the intrastate operation is not independent but is part of the interstate service. Since the interstate traffic is to be substantial in relation to the intrastate in that same operation, the information should include intrastate traffic figures by which to establish the substantiality of such interstate traffic.

Funbus Systems Remand I, 1987 WL 100200. As is evident from this requirement, the traffic study produced by the motor carrier must demonstrate why the carrier can claim that a substantial percentage of its passengers were transported in interstate commerce. The CPUC believes, in accordance with the above cited authorities, that the traffic study must establish the existence of through ticketing or common arrangement with a connecting out-of-state carrier. CME’s claim that the ICC discredited this requirement in Funbus Systems Remand II by referring to Charter Limousine, Inc. v. Dade County Bd. of County Com’rs, 678 F.2d 586 (5th Cir. 1982), is unsupported by contemporaneous decisions of the ICC that favorably refer to only the “through ticketing or other common arrangements with a connecting out-of-state-

carrier” approach. See O’Hare Wisconsin Limousine Service, Inc. -- Intrastate Operations – Petition for Declaratory Order, 1988 WL 225254, n.1 (decided August 11, 1988); Erin Tours, Inc. – Intrastate Operations – Petition for Declaratory Order, 1988 WL 226107, n.1 (decided March 17, 1988).

CPUC is certainly aware that certain courts, but not the ICC or the Board, have determined that the common arrangement requirement can be satisfied even if made with a non-carrier third party. Generally speaking, those cases are readily distinguishable, present a higher favorable interstate to total passenger ratio than exists here, and do not constitute a federal judicial reversal of federal agency law. Specifically,

Southerland v. St. Croix Taxicab Ass’n, 315 F.2d 364 (3rd Cir. 1963): This case

concerns non-scheduled operations prearranged exclusively for a single group of employees that had been given an all-expenses paid vacation bonus trip akin to a “package tour” that included both air and ground transportation; CME, on the other hand, operates for the purpose of serving all who wish to use its service including those that have not purchased a package tour.

Executive Town & Country Services, Inc. v. City of Atlanta, 789 F.2d 1523 (11th Cir.

1986): This case concerns a non-scheduled limousine service operation. The ICC was not a party to this case, nor did it involve the judicial review of an ICC decision. Moreover, the central issue was not the substantiality of interstate operations the limousine carrier’s.

Charter Limousines, 678 F.2d 586: In this case, 60-65% of the motor carrier's passengers were prearranged by a single entity, which entity was also the motor carrier's franchisor. Moreover, unlike CME, Charter Limousines do not make on demand or random pick ups of passengers at an airport. This case also predates the laying down of the "iron clad" analysis presented by the Funbus Systems line of cases.

CPUC recognizes, while not advocating, that the Board could expand the common arranger to include non-carrier third parties; however, there is no support, with the possible exception of Charter Limousines, 678 F.2d 586, for dropping the requirement that the third party must do more than merely prearrange ground transportation.⁶

Interestingly, as of June 1, 2004, CME's counsel asserted that a motor carrier operating within a single state must demonstrate its nexus to interstate operations by proving a common arrangement that included, at a minimum, an air and ground transportation package. See Exhibit 5. In changing its tune a few weeks later, CME's counsel claims to have updated the law post-1995. See Exhibit 6. However, CME has relied on no judicial or administrative pronouncements issued during the last decade. Thus, CME's position is clearly an attempt to reinterpret the law that has existed unchanged over the last 15 to 20 years without any legal justification. That attempt should be rejected.

B. When properly applying the law, CME's traffic study falls short of demonstrating that it transported a "substantial" number of passengers in interstate

⁶ Further, on the issue of whether a motor carrier can be a third party arranger, CPUC did not adopt the rule change proposal discussed at footnote 12 of CME's Petition.

**commerce in 2003 in accordance with the conditions
of its federal operating authorities**

1. The traffic study prepared by CME does not demonstrate actual and bona fide interstate passenger movements.

CME did not, as a part of its petition for declaratory order, submit a traffic study as evidence in this proceeding. Instead, CME stated that it had performed one and expected the Board to rely on its self-serving conclusions drawn therefrom. It is only by way of CPUC's Reply that the Board is for the first time being provided with a copy of CME's traffic study.

Based on CME's traffic study alone, see Highly Confidential CD-rom containing the electronic data responses to CPUC Interrogatory Nos. 1-7 and 1-10, the only reasonable conclusion is that CME has failed to persuasively demonstrate that any of the passengers it transported in its regularly scheduled shuttle service in 2003 were transported in interstate commerce. Just because CME can link each third party arranger to a specific passenger and has data in the airline and flight number fields, which fields' primary purpose is to determine the shuttle departure time, CME wants the Board to believe that it has transported that passenger in interstate commerce pursuant to a common arrangement. However, the information set forth in CME's traffic study does not inform the data reviewer whether the CME passenger purchased a package from the third party, which package also included an interstate air travel movement. Per the ICC's decisional law, this nexus must be demonstrated to prove actual and bona fide interstate operations; CME has not made the requisite demonstration.

On the other hand, CPUC has performed analyses of CME's data that will aid the Board. As demonstrated by the examples below and the Verified Statement of Dino Ioannides, it is CME's traffic study falls woefully short in its attempt to demonstrate a "substantial" level of interstate passenger traffic.

First, CPUC attempted to identify the number of passengers that were placed on CME by another carrier. The results of this analysis are set forth in Exhibit 3 to Mr. Ioannides' Verified Statement. In terms of magnitude, the resulting ratio of these passengers to CME's total number of passenger transported in scheduled service is not too different from the ¼ of one percent that was characterized as insubstantial in Funbus Systems Remand II.

Second, as demonstrated by a review of the information provided to CME from its third party vendors as well as the independent research conducted by Mr. Ioannides, see Exhibits 4-19 of Mr. Ioannides' Verified Statement, CME failed to accurately report [follow] the data that it requested from its third party vendors. The result of an analysis of that information is that the actual potential maximum ratio of interstate to total passengers (scheduled service) is substantially lower than the 24.4% claimed by CME and, therefore, should be characterized as insubstantial. See Mr. Ioannides' Verified Statement, ¶ 16, and Supplemental Confidential Statement of Counsel to Verified Statement of Dino Ioannides.

Third, it is apparent, based on argument made by CME in another matter, that CME has been unsuccessful in building its alleged interstate business over the years. In 1994, CME presented a nearly identical claim – 25% of its passengers were transported in interstate commerce. Aspen Limousine Service, 891 F. Supp 1450, 1454 (CME's adversary had

challenged CME's categorization of its passengers into interstate and intrastate on the independent ground of the content of various CME regulatory filings and did not directly critique CME's passenger categorization; CPUC was not a party to this case). Thus, CME is not a budding interstate business that the Board might wish to protect from competitors; or allegedly burdensome regulation nor is CME noticeably attempting to increase the commonly arranged aspects of its business. As noted in the Factual Background and in the Verified Statement of Gary Gramlick, CME is the 600-pound gorilla in the intercity airport-ski resort ground transportation business that operates without impairment from competing common carriers in great part because it has a state awarded monopoly over its routes.

2. CME's operations aren't purely regularly scheduled.

One element of the condition in a federally issued regular route authority is that the motor carrier must provide regularly scheduled service. While clearly frequent and seemingly at regular intervals, CME's service is not purely based on a reliable, chronological schedule. CME is in the business of providing adequate transportation service to meet the ebb and flow of passenger traffic embarking and disembarking from airplanes. As CME's president and CEO, Mr. Jay Ufer, explained in his deposition, "There's always a minimum of one van at the scheduled time unless we cancel the trip where there's no guests in either direction." Exhibit 7, p. 160 ll. 3-6.

Further, since Mr. Ufer apparently considers CPUC "scheduled" service to be essentially identical to the riding public as federal "regular route" service, *see* Ufer Verified Statement, ¶ 14, the Board should consider the implications of the Colorado Supreme Court's

decision in Eveready Freight Serv., Inc. v. Public Utilities Comm'n, 449 P.2d 642 (1969),

wherein the Court described the attributes of scheduled service:

It seems clear to us that any definition of "scheduled operations" must entail the concept of service on a regular time schedule previously announced as to time of departure and arrival between definitely established points regardless of whether there are passengers or freight to be carried. See Tidewater Express Lines, Inc. v. United States, 278 F.Supp 561; Thompson v. Fidelity & Casualty Co., 16 Ill. App. 2d 159, 148 N.E.2d 9, cert den, 358 U.S. 837, 79 S.Ct. 62, 3 L.Ed.2d 74; McBride v. Prudential Ins. Co., 147 Ohio St. 461, 72 N.E.2d 98.

In light of CME's apparent unwillingness to run empty vans when there are no guests at the terminus points of its routes, there is some doubt regarding whether CME is providing the type of "regularly scheduled interstate transportation service" necessary to permit CME to provide related transportation services in intrastate commerce pursuant to its federal certificates.

3. CME should be precluded from claiming that any of its operations along its Eagle-Vail/Vail-Eagle route allow for the transport of passengers in intrastate commerce

Pursuant to 49 U.S.C. § 13506(a)(8)(A), the Board has no jurisdiction over the "transportation of passengers by motor vehicle incidental to transportation by aircraft." Furthermore, it is undisputed that this exempt zone extends in a 25 air (nautical) mile radius from the boundaries of the airport in question, unless modified in a Board proceeding. 49 C.F.R. § 372.117. A motor carrier of passengers may operate in interstate commerce within this exempt zone so long as all passengers are transported pursuant to a through ticketing or other common arrangement "between the motor carrier and the air carrier;" Kimball -

Petition for Declaratory Order – Transportation of Passengers Prior or Subsequent to their Moving by Aircraft, 131 M.C.C. 908 (1980); however such operations are not conducted pursuant to a federal operating certificate. Accord San Juan Air Services, Inc., d/b/a ShuttleExpress – Petition for Declaratory Order, 1988 MCC Lexis 455 (decided October 20, 1988). There can be no “common arrangement” for the purpose of federal licensing when exempt zone operations are at issue.

Despite CME’s assertions that no aspect of this matter implicates the law interpreting 49 U.S.C. § 13506(a)(8)(A), the manner in which it operates its Eagle-Vail/Vail-Eagle route, which route serves EGE, one the one hand, and, on the other hand, the ski resort towns of Vail and Avon/Beaver Creek, necessitates considering whether this route is an exempt route not capable of being operated pursuant to the terms and conditions of CME’s federal operating certificates.

First and foremost, CPUC believes that both the Town of Vail and the Town of Avon/Beaver Creek are within the 25-air mile radius of EGE. See Verified Statement of Dino Ioannides at ¶ 15. Further, as Mr. Ioannides explains in his verified statement at paragraph 15, CME operates the Eagle-Vail/Vail-Eagle route wholly independent of its Denver airport operations. The purpose of the Eagle-Vail/Vail-Eagle route appears not to be to tack or create an interconnection point with CME’s Denver to Grand Junction, CO route; it is apparently operated as a standalone offering for the purpose of serving the persons that arrive and depart through EGE.

Because of the independent nature of CME's operation of the Eagle-Vail/Vail Eagle route and the fact that the towns of Vail and Avon/Beaver Creek are located within 25 air miles of EGE, CPUC contends that the Board lacks jurisdiction over this independently operated "local" CME route.

CONCLUSION

CPUC's respectfully requests that the Board deny the relief request by CME's petition for declaratory order. There are numerous bases for denial. Chiefly, the underlying CPUC civil penalty enforcement action against CME is an exercise of the CPUC's proper authority to oversee intrastate commerce and, specifically those passenger motor carriers possessing a CPUC issued operating authority that creates a regulated monopoly. Also, the underlying CPUC civil penalty enforcement action relates to nothing more than ensuring that the CPUC receives proper notice of CME's rate charges – regulation that is not preempted by 49 U.S.C. § 14501(a). Finally, when the Board applies the applicable "through ticketing and common arrangement with a connecting out-of-state carrier" test, CME's traffic study fails to demonstrate that CME provides actual, bona fide, substantial, and regularly scheduled interstate passenger transportation service so as to permit it to also provide service in intrastate commerce along the same routes.

In addition, the Board should declare that CME's Eagle-Vail/Vail-Eagle shuttle movements are not permitted to be operated under its certificates, but rather are exempt from federal regulation. In conjunction with this ruling is the denial of the right of CME to

provide service on this route to passengers traveling in intrastate commerce under carrier's federal registration.

Dated this 9th day of September, 2005.

JOHN W. SUTHERS
Attorney General



David A. Beckett, 23098*
Assistant Attorney General
Business and Licensing Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
Telephone: (303) 866-5135
Fax: (303) 866-5395
*Counsel of Record

Edward D. Greenberg**
Galland, Kharasch, Greenberg, Fellman
& Swirsky, P.C.
1054 Thirty-First Street, NW, Suite 200
Washington, DC 20007-4429
Telephone: (202) 342-5200
Fax: (202) 342-5219
**Special Assistant Attorney General

Attorneys for the Public Utilities Commission of
the State of Colorado

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within COLORADO PUBLIC UTILITIES COMMISSION'S VERIFIED REPLY STATEMENT upon all parties herein by electronic mail and depositing copies of same in the United States mail, first class postage prepaid, or as otherwise indicated, at Denver, Colorado, this 9th day of September, 2005, addressed as follows:

Thomas J. Burke Jr.
Jones & Keller
1625 Broadway, Suite 1600
Denver, CO 80202

Fritz R. Kahn
Fritz R. Kahn P.C.
1920 N Street NW 8TH Floor
Washington, DC 20036-1601

Edward D. Greenberg
Galland, Kharasch, Greenberg, Fellman
& Swirsky, P.C.
1054 Thirti-First Street, NW, Suite 200
Washington, DC 20007-4429

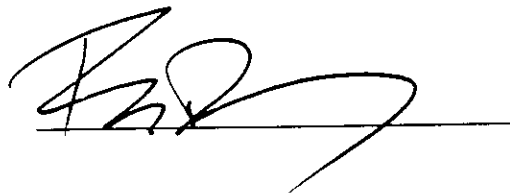
A handwritten signature in black ink, appearing to be "F.R. Kahn", written over a horizontal line.

EXHIBIT 1



Interstate Commerce Commission
Washington, D.C. 20423-0001

December 1, 1993

Office of the Secretary

James A. Beckwith, Esq.
7910 Ralston Road, Suite 7
Arvada, CO 80002

Control No. 274-93

Dear Mr. Beckwith:

This responds to your letter requesting an informal opinion as to whether Aspen Limousine Service, Inc., d/b/a/ Vans to Vail, Inc. (ALS), may perform service from Denver International Airport to hotels in downtown Denver under its certificate number MC-174332 Sub-No. 5.

It is my informal opinion that the service described above may not be performed under the carrier's certificate MC-174332 Sub-No. 5 because there is no showing that interstate operations are being conducted, in accordance with the condition in the certificate. The condition imposed by the certificate and 49 U.S.C. § 10922(c)(2)(J) is that intrastate transportation service on a route under the certificate may only be provided if the carrier provides regularly scheduled interstate transportation service on the route. Such interstate operations must be substantial, bona fide and actual, rather than a mere holding out. See *Boulder Airporter, Inc. v. Stapleton Stagecoach Co.*, 8 I.C.C.2d 553, 558 (1992), appeal den. (not printed), served January 1, 1993. However, if any of the transportation were interstate, it may be exempt incidental to air transportation under 49 U.S.C. § 10526(a)(8)(A) (1991) and corresponding regulations codified at 49 C.F.R. § 1047.45 (1992).

49 U.S.C. § 10526(a)(8)(A) exempts from Commission regulation the transportation of passengers by motor vehicle incidental to transportation by aircraft. The Commission adopted regulations implementing the exemption and determined that the single State motor transportation of passengers, having an immediately prior or subsequent air movement was intrastate in character, regardless of the passengers' intent to continue or complete an interstate journey, if the transporter sold no through tickets and had no common arrangements with connecting out-of-State carriers. *Motor Transp. of Passengers Incidental to Air*, 95 M.C.C. 526, 536 (1964). A common arrangement exists only when there is an arrangement between the motor carrier and the air carrier, and does not include a "package tour" involving both air and ground transportation arranged by a third party, such as a travel agent. *Pennsylvania Public Utility Com'n v. U.S.*, 812 F.2d 8 (D.C. Cir. 1987), citing *Kimball-Petition for Declaratory Order*, 131 M.C.C. 908 (1980).

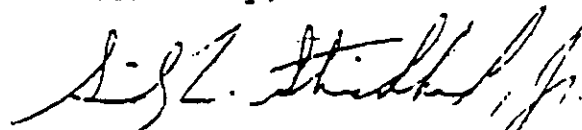
JUN 27 1995 9: 48
Mr. Beckwith
Page 2

ALS is not engaged in interstate passenger transportation when transporting "walk-up" customers, i.e., those who make their own arrangements direct with ALS. Similarly, if the only difference between "walk-up" and "pre-booked" passengers is that "pre-booked" passengers make their own arrangements by placing reservations with the motor carrier, no interstate transportation is performed. Interstate transportation is involved only if ALS has through ticketing or a common arrangement with the air carrier.

Finally, if some of the transportation provided by ALS is interstate, it is exempt incidental to air transportation if performed within an area encompassed by a 25-mile radius of the boundary of the airport at which the passengers arrive or depart, and by the boundaries of the commercial zones of any municipalities whose commercial zones fall within the 25-mile radius of the airport. See 49 C.F.R. § 1047.45(a) (1991). Your letter states that Denver International Airport is within the City and County of Denver, apparently as are the unnamed downtown Denver hotels. If this is so, the 25 mile radius of the airport boundary would include Denver and its commercial zone. A definitive informal opinion as to the geographical scope of the incidental to air exemption would depend upon the location of the airport or the hotels sought to be served or the distance between the two, which are not specified in your letter.

This informal opinion is not binding on the Commission.

Sincerely,



Sidney L. Strickland, Jr.
Secretary

EXHIBIT 2



U.S. Department
of Transportation

Federal Highway
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 1 1997

J. Bryan Howell
Assistant Attorney General
Regulatory Law Section
Colorado Public Utilities Commission
1525 Sherman Street
Denver, Colorado 80203

Refer to: HIA-1

Re: Petitions for Declaratory Orders-- Colorado Mountain Express, Inc.; ABC Carrier, Inc.
D/B/A Denver Express Shuttle Inc. and Airport Transportation Service of Vail, Inc.

Dear Mr. Howell:

As you know, the Surface Transportation Board has forwarded the captioned petitions to the Federal Highway Administration (FHWA) which is now responsible for the registration of motor carriers operating in interstate or foreign commerce. The requests for declaratory relief are based on the contention that the carriers' operations conducted wholly within the State of Colorado are not authorized by the certificates of operating authority issued by the former Interstate Commerce Commission (ICC).

The contested traffic raises two distinct issues. The ICC Termination Act of 1995, P.L. 104-88, retains the requirement that motor carriers of passengers may provide regular route transportation entirely within one State if such intrastate transportation is provided on a route over which the carrier provides interstate transportation of passengers. 49 U.S.C. § 13902(b)(3).

ICC certificates of operating authority issued pursuant to this provision contain the following condition:

The carrier is authorized to provide intrastate transportation service on a route under this certificate only if the carrier provides regularly scheduled interstate transportation service on the route.

It is beyond debate that carriers must comply with this condition to conduct intrastate operations pursuant to an ICC or FHWA grant of operating authority. The investigation reports attached to the initial petition cannot shed any light on the extent of any interstate operations currently being performed by any of the captioned carriers. Further, FHWA is not in a position to dedicate resources to conduct evidentiary proceedings each time a carrier's intrastate operations are challenged by a competitor or a state Public Utilities Commission. Nevertheless, a carrier that does not provide bona fide, regularly scheduled interstate transportation on the intrastate route does not possess FHWA authorization to conduct intrastate transportation.

The remaining issue concerns the nature of single state transportation of passengers to and from airports. The ICC has long required the existence of a through ticketing arrangement or other common arrangement with a connecting out-of-state carrier in order to find that a single state transportation segment was part of an interstate movement. United States v. Yellow Cab, 332 U.S. 218 (1947), Motor Transportation of Passengers Incidental to Air, 95 M.C.C. 526 (1964), Pennsylvania Public Utility Commission v. United States, 812 F. 2d 8 (D.C. Cir. 1987), and Portland Airport Limousine Company - Petition for Declaratory Order, 118 M.C.C. 45 (1973). Clearly, passenger carriers transporting "walk-up" passengers would be engaging in intrastate transportation.

I am aware that by decision served February 28, 1997, the Surface Transportation Board approved the merger of Colorado Mountain Express, Inc. and Airport Shuttle Colorado, Inc., d/b/a Aspen Limousine Service, Inc. into a new entity, Colorado Mountain Express. The new entity has failed to make an acceptable insurance filing with FHWA and a new operating certificate has not been issued. Accordingly, any interstate operations conducted by Colorado Mountain Express would be unauthorized.

I hope this information has been helpful.

Sincerely yours,

Terry Shelton
for John F. Grimm, Director,
Office of Motor Carriers
Information Analysis

EXHIBIT 3

The Honorable Robert Andrews
U.S. House of Representatives
Washington, DC 20515-3001

Dear Congressman Andrews:

Thank you for your letter of May 6 recommending that the U.S. Department of Transportation (DOT) amend its regulations to provide that certain intrastate for-hire motor carriers of passengers be considered interstate motor carriers. The limousine industry believes this action would enable many small businesses to take advantage of a Fair Labor Standards Act (FLSA) provision that exempts employers from the requirement to pay employees 1½ times their normal wages for overtime work.

While I am sympathetic to the economic difficulties faced by small businesses providing limousine services, I cannot support the action you recommend because it would be contrary to statutory and regulatory definitions of interstate commerce. It also would contradict judicial and interpretive precedents that recognize the use of through-ticketing or arrangements between passenger carriers as the essential determinant of whether a for-hire motor carrier of passengers operating within the boundaries of a single State is engaged in interstate commerce.

Safety is DOT's highest priority. The Federal Motor Carrier Safety Administration (FMCSA) is the agency in DOT with responsibility for granting operating authority to for-hire motor carriers of passengers. These responsibilities originally were functions of the Interstate Commerce Commission (ICC). Safety duties were transferred from the ICC to DOT in the mid-1960s. Later, with the passage of the ICC Termination Act of 1995 (Pub. L. 104-88), Congress gave DOT the responsibility for operating authority rules. These changes in Federal oversight of for-hire motor carriers of passengers have not altered the statutory and regulatory definitions of interstate commerce.

Moreover, the body of judicial decisions concerning disputes about the applicability of rules to certain for-hire motor carriers of passengers has added cumulative weight to the statutory and regulatory definitions of interstate commerce. These court decisions have been used effectively over the years to distinguish between intrastate motor carriers and interstate carriers subject to DOT's statutory authority.

Generally, when a for-hire motor carrier of passengers provides point-to-point transportation within a single State and that service is purchased (by the passengers or a person acting on behalf of the passengers) separately from services provided by a previous or subsequent transportation provider (for example, another for-hire motor carrier of passengers or an air or rail carrier) operating across State lines, the for-hire, point-to-point provider is considered to be operating in intrastate commerce. Regardless of the intention of any passenger to continue or complete an interstate journey or the distance involved, a motor carrier of passengers operating wholly within a single State, selling no through-tickets, and having no common arrangements with another carrier responsible for transporting the passengers across a State boundary is not engaged in interstate commerce.

By contrast, when through-tickets are sold or there is an arrangement between a motor carrier of passengers providing point-to-point transportation within a single State and a passenger carrier that transports the passengers across a State boundary, the transportation would be considered interstate commerce. In this case, the point-to-point transportation within a single State is a continuation of an interstate trip. Consequently, the motor carrier performing this operation would be engaged in interstate commerce and subject to DOT's statutory authority (although not necessarily to all of the implementing regulations). Because of the FLSA exemption and the U.S. Department of Labor's (DOL) implementing regulations, motor carriers subject to DOT authority under 49 U.S.C. 31502 are not required to pay employees 1½ times their normal wages for overtime work.

Many limousine operators performing point-to-point transportation within a single State are considered intrastate motor carriers because there is no through-ticketing or arrangement with another transportation provider; their services are acquired separately from the passenger carrier that transported the passengers across State boundaries. Although the limousine operators may argue that they are engaged in interstate commerce when all segments of the journey are arranged by the same travel agent, corporate travel managers or similar individuals, DOT has issued guidance in the Federal Register stating explicitly that third-party arrangement of all transportation segments does not make the single-State portion an interstate trip (40 FR 50671; October 31, 1975). As intrastate motor carriers, these limousine operators are not subject to DOT's statutory authority under 49 U.S.C. 31502. Therefore, they must pay employees at least 1½ times their normal wages for overtime work under the FLSA and DOL's implementing regulations.

I have discussed this subject with FMCSA Acting Administrator Annette M. Sandberg. She has offered to make her staff available to meet with representatives of the limousine industry to explain this matter further. Industry representatives may contact John Steinhoff, Chief of the agency's Commercial Passenger Carrier Safety Division, or Larry W. Minor, Vehicle and Roadside Operations Division Chief, at 202-366-4009 to discuss the scope of FMCSA's authority under 49 U.S.C. 31136 and 31502.

If I can provide further information or assistance, please feel free to call me.

Sincerely yours,

Norman Y. Mineta

FMCSA:MC-PSV:LMinor:64009:6/21/2002

REV Lbeauchesne 6/10/03

FMCSA Control No. 2359 Other Control No. S10-030512-004

cc: MC-PS(Reader File), MC-PSV(Minor, Freund), MC-PR, MC-MBE

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H:\lbeauchesne\letters\regs\Andrews Limousine REV.doc

EXHIBIT 4

The Honorable Robert Andrews
U.S. House of Representatives
Washington, DC 20515-3001

Dear Congressman Andrews:

Thank you for your letter of May 6 recommending that the U.S. Department of Transportation (DOT) amend its regulations to provide that certain intrastate for-hire motor carriers of passengers be considered interstate motor carriers. The limousine industry believes this action would enable many small businesses to take advantage of a Fair Labor Standards Act (FLSA) provision that exempts employers from the requirement to pay employees 1½ times their normal wages for overtime work.

While I am sympathetic to the economic difficulties faced by small businesses providing limousine services, I cannot support the action you recommend because it would be contrary to statutory and regulatory definitions of interstate commerce. It also would contradict judicial and interpretive precedents that recognize the use of through-ticketing or arrangements between passenger carriers as the essential determinant of whether a for-hire motor carrier of passengers operating within the boundaries of a single State is engaged in interstate commerce.

Many limousine operators performing point-to-point transportation within a single State are considered intrastate motor carriers because there is no through-ticketing or arrangement with another transportation provider; their services are acquired separately from the passenger carrier that transported the passengers across State boundaries. Although the limousine operators may argue that they are engaged in interstate commerce when all segments of the journey are arranged by the same travel agent, corporate travel managers or similar individuals, DOT has issued guidance in the Federal Register stating explicitly that third-party arrangement of all transportation segments does not make the single-State portion an interstate trip (40 FR 50671; October 31, 1975). As intrastate motor carriers, these limousine operators are not subject to DOT's statutory authority under 49 U.S.C. 31502. Therefore, they must pay employees at least 1½ times their normal wages for overtime work under the FLSA and DOL's implementing regulations.

I have discussed this subject with the Federal Motor Carrier Safety Administration's Acting Administrator Annette M. Sandberg. She has offered to make her staff available to meet with representatives of the limousine industry to explain this matter further. Industry representatives may contact Larry W. Minor, Chief of the agency's Vehicle and Roadside Operations Division, at 202-366-4009 to discuss the scope of the Federal Motor Carrier Safety Administration's authority under 49 U.S.C. 31502.

If I can provide further information or assistance, please feel free to call me.

Sincerely yours,

Norman Y. Mineta

FMCSA:MC-PSV:LMinor:64009:6/18/2003

REV Lbeauchesne 6/18/03

REV to accommodate C-2's Comments:LMinor:6/23/2003

FMCSA Control No. 2359 Other Control No. S10-030512-004

cc: MC-PS(Reader File), MC-PSV(Minor, Freund), MC-PR, MC-MBE

H:\HMCS10\2003 Letters\General\The Honorable Robert Andrews - OST Version.doc

EXHIBIT 5

Loren French

From: Tom Ball [tomb@cmex.com]
Sent: Tuesday, June 01, 2004 4:41 PM
To: Srubin@vailresorts.com
Cc: tjburke@joneskeller.com; tonyc@edwards-mail.ewrt.com; jayu@edwards-mail.ewrt.com
Subject: FWD: Air and Ground Transfer Component Sales

Susan:
Here are the reports and Jay's letter.
I have included (below) order for you to get a better read on this issue... Mr. Burke's review of the matter.

Please contact me with questions.

Thanks,
tomb

Letter from Tom Burke:

Thanks so much for responding promptly to Jay Ufer's request. I am counsel to CME and will be pleased to speak with your counsel. We are somewhat under a time gun, so let me tell you a bit of what prompts Colorado Mountain Express's request.

Briefly, the Colorado Public Utilities Commission is questioning the interstate nature of a substantial number of CME's ground transportation, specifically those involving "packages" whereby components of a trip, including air and ground transportation, at a minimum, but which could also include lodging, ski lift ticket, and so on. There are presently proceedings pending both before the Colorado PUC and also the federal court in Denver regarding this matter. We think it is a dispute which needs to go away because of the substantial amount of business done in interstate commerce, including with your company.

We would like to have a "count" of records of these "packages" which involve a third party prearrangement for a series of components of a travel package. They need to embody both the air and ground components, as well as any other elements of a "package." CME's own records may be and quite likely are a reliable guide for researching your company's own numbers, but the "count" needs to be of your own records. The records should be for calendar 2003.

So long as the Colorado PUC is presented with evidence of approximately 30,000 of such package trips in which CME provided the ground transportation to and from DIA and/or the Eagle Jetport, the PUC is willing to discontinue its enforcement proceeding and CME will likely be willing to discontinue its own federal court proceeding seeking to enjoin the PUC's enforcement proceeding. We have a June 10 continued settlement conference in the Federal court here in Denver at which I would like very much to present the resulting data and narrative.

I appreciate your courtesy and cooperation. Please let me know when and how to get in touch with your counsel so I am able to make this task as easy on your time as possible. Thank you.

Tom Burke

Thomas J. Burke, Jr.
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202

Telephone: (303) 573-1600
Fax: (303) 893-6506
Email: tjburke@joneskeller.com

----- Original Message -----

From: "Tom Ball" <tomb@cmex.com>

Reply-To: <tomb@cmex.com>

Date: Thu, 27 May 2004 15:24:59 -0600

Chris:

The attached message is from Jay Ufer- President of CME. I have left a phone message for you regarding this information.

If you need any additional conversation or this information should be re-directed to another person within your organization please let me know.

Thanks for your attention to this matter.

tomb

EXHIBIT 6

Vail Resorts
Dear Susan:

"Law" is located in the dictionary between lavatory and laxative" and I'm quite sure you are sick of this crap on behalf of CME. I apologize for any confusion in what was "exactly" required in information we requested and it was magnified by vacations and my non-direct involvement with CME legal counsel. The government had imposed a tight timeline, which we finally got extended, based upon petitioning the court.

Furthermore, I have "challenged" CME legal counsel to research his interpretation that airline tickets must be "purchased through" versus simply "airline information provided by" third party arrangers with an origin or destination out of state to the ground carrier qualifying as a "through booking arrangement". His "confidential" response is below:

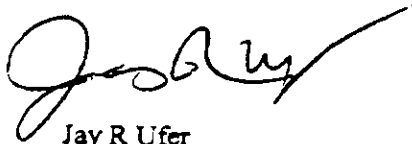
"Jay: after reviewing the cases and bringing them all up to date from 1995, I think that the notion of prearrangement is what is at stake, not who paid for the air portion of the trip. So long as the prearranged through movement was (1) accomplished by a third party with information which it obtained, (2) was provided to CME by the third party, including the air information, and (3) essentially provided for a through movement from out of state origin, or to out of state destination, that would seem to satisfy the test."

The information requested is only applicable on "scheduled service portions" of CME bookings versus Charters and Premier. In order to expedite this process, we have enclosed a report from our system, exported into an excel format, of all of the guests on your account in alphabetical order for calendar year 2003. It details the guests name, number in the party, airline information if available, shuttle time, reservation #, your external reference #, CME route, and net rate billed and Missing Airline information. If you did not provide CME with airline information, the CME system automatically loads an "*" into the flight number section. We have, therefore, added up the passengers on the right hand side that we did not receive the flight information from you and have tabulated the total at the end of the report.

If you would review the report, verify against your internal documents and records an air component and or other components of the guest's package versus selling "just CME/RE" and execute the attached document, mailing it back to us as soon as possible we would be extremely grateful for your help. We would greatly appreciate you responding by July 1, 2004.

I again apologize for any confusion and unnecessary burden due to this situation!

Sincerely;



Jay R Ufer

President CEO

Exhibit

STEWART 7
7-14-05 MK
Part on Reporting & Video

We hereby verify that our organization provides prearrangement of travel component packages that may include:

- Airline tickets
- Car rentals
- Ground transfers
- Lodging accommodations
- Lift tickets
- And other travel related components, services or amenities.

Consumers may have purchased airline tickets from us or other sources including redemption through airline frequent flyer programs or via various Internet site providers.

Regardless of how the air component was purchased or paid for our organization secured the airline information from the consumer combining it with other components of travel listed above to create a prearranged through ticketing component for the consumers vacation providing CME with the airline and guest information.

We have verified our internal records and books for this information and utilized the CME report for calendar 2003 as a supplemental reconciliation tool in this process. We hereby certify that 20,115 guest seats or 97.6 % were prearranged in a through ticketing arrangement with our organization on the "scheduled shuttle service" as part of their overall vacation package for 2003.

Representing: Vail Resorts accounts

Signed: _____

Title: _____

Date ____/____/____

Return email to jayu@cmex.com

Please return original "on company letterhead" and signed to

Colorado Mountain Express

Attn: Jay Ufer

PO Box 580

Vail, CO 81658

EXHIBIT 7

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN
COLORADO

DEPOSITION OF JAR R. UFER

PURSUANT TO NOTICE by the
Colorado Public Utilities Commission, the above-
entitled deposition was taken on behalf of the
Colorado Public Utilities Commission at 1625
Broadway, 16th Floor, Denver, Colorado, on
May 20, 2005, at 9:03 a.m., before Dawn E.
Eastman (Calderwood), Certified Shorthand Reporter,
Registered Professional Reporter, and Notary
Public.

158

1 A. There's no typical.
2 Q. That's fair.
3 A. It's just the answer, David.
4 Q. So CME's scheduled EGE -- just strike
5 that.
6 How many flights, at the peak of
7 winter season, arrive into EGE on a typical day, a
8 peak day?
9 A. There's multiple questions there.
10 Q. Okay. In the winter season, how many
11 airline arrivals --
12 A. Midweek, it could be as many as 8 to
13 12. On a Saturday/Sunday, it could be as many as
14 25.
15 Q. Okay. And CME changes its EGE
16 schedule as frequently and as often as the airlines
17 change theirs?
18 A. Yes.
19 Q. What about CME's operations from --
20 into FTC and VTC -- and maybe you can, for clarity,
21 identify what those abbreviations stand for?
22 A. VT -- restate your initials there.
23 Q. F-T-C and V-T-C. I'll tell what I
24 think they are. I think --
25 A. Please.

159

1 Q. One is Frisco Transit or Transport
2 Center and the other is Vail Transit or Transport
3 Center?
4 A. Very good. We've moved off of Eagle.
5 Q. I should have helped you; I'm sorry.
6 A. That's all right. The Frisco Transfer
7 Center and Vail Transfer Center.
8 Q. Okay. Are those stops served on your
9 scheduled routes to Summit County and to Vail?
10 A. Yes, they are consolidated with our
11 interstate passenger regularly scheduled routes.
12 Q. So the -- a passenger who has got a
13 reservation from Denver to the Vail Transport Center
14 could be on the same van that's operating on the --
15 as a third-party person identified in the 62,807
16 passengers?
17 A. Yes.
18 Q. So there's no separate schedule for
19 those routes?
20 A. No. They are considered pickup
21 locations, not routes.
22 Q. Do your shuttles run on their schedule
23 if no passengers show up?
24 A. It depends on the direction.
25 Q. Okay.

160

1 A. We may run vans down the hill with
2 guests and then they would run back up with no
3 guests at the scheduled time. There's always a
4 minimum of one van at the scheduled time unless we
5 cancel the trip where there's no guests in either
6 direction.
7 Q. So even though you're stated schedule
8 is every hour on the hour from Denver to Vail -- I'm
9 going to strike that because of the absurdity of the
10 question.
11 In the off-season, on the schedule
12 where you are running every 90 minutes, if there are
13 no passengers for a particular departure, the van --
14 and there's no need for the van in the mountains,
15 the van could stay at DIA, and there would be no
16 scheduled departure?
17 Do you understand what I'm saying?
18 MR. BURKE: I think I'm going to
19 object on the grounds that it's been asked and
20 answered. But go ahead if you have some --
21 THE DEPONENT: I'll stick with your
22 objection. I'm not sure -- I think I know where you
23 are headed, but I'm not going to go there.
24 Q. (By Mr. Beckett) I understand that
25 CME can print out a driver detail; is that correct?

161

1 A. Yes.
2 Q. If CME prints out a driver detail for
3 a particular date, could CME -- actually, is the
4 driver detail a schedule detail? In other words,
5 are multiple vans identified on that spreadsheet?
6 A. The driver detail is by driver.
7 Q. Okay. How about a -- how about a
8 detail of transfers? Is that a search that you're
9 familiar with?
10 A. That was an example of a report that
11 we provided on 4/21/04.
12 (Deposition Exhibit 8 was marked for
13 identification.)
14 Q. (By Mr. Beckett) The end of September
15 is an off-season time period for CME; is that
16 correct?
17 A. Yes.
18 Q. And you said that presently, or in
19 2003, it was your belief that CME operated a
20 90-minute schedule to Vail, in the off-season of
21 2003?
22 A. Nine or ten departures, yes.
23 Q. What I've provided to you -- do you
24 recognize what's been provided as Exhibit 8?
25 A. Yes.



BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

VERIFIED STATEMENT OF GARY GRAMLICK

1. I am employed by the Public Utilities Commission of the State Colorado ("CPUC") as a rate/financial analyst. My office is located at 1580 Logan, OL-2, Denver, Colorado 80203. I am authorized to offer this statement on behalf of CPUC in the instant declaratory order proceeding before this Board.

2. My responsibilities include reviewing applications for Certificates of Public Convenience and Necessity ("CPCN") for passenger transportation conducted by common carriers by motor vehicle and enforcing Colorado statutes and CPUC rules.

3. To the extent that my statement refers to books and records of the CPUC, these books and records, including all exhibits to this statement, were either filed at the CPUC or were created by the CPUC in the ordinary course of the CPUC's business.

4. East West Resort Transportation, LLC, and TMS, LLC, doing business as Colorado Mountain Express ("CME"), the petitioner in this proceeding, provides intrastate passenger transportation in Colorado pursuant to CPCN No. 7321 issued by the CPUC. As such, CME is a common carrier of passengers authorized to provide both scheduled (regular route) and call-and-demand services subject to the full jurisdiction of the CPUC to the extent permitted by federal law. Under Colorado law, CME's operations are protected by the doctrine of regulated monopoly and, therefore, by agreeing to be regulated by the CPUC, CME is permitted to operate its scheduled shuttle service without any risk of competitive impairment from another intrastate common carrier.

5. A copy of CPCN No. 7321 (mailed June 4, 2003) as it existed at all times pertinent to my below-described civil penalty investigation is attached to this statement as Exhibit 1. My Exhibit 1 differs from the copy of CPCN No. 7321 that CME appended to its opening evidence as Exhibit 16 because Exhibit 1 to my statement is the version of CPCN No. 7321 in effect at the time of the investigation I describe below (CME has supplied an earlier version). All service suspensions and abandonments to CPCN No. 7321 that occurred between August 3, 1999 (the date of CME's Exhibit 16) and June 4, 2003 (the date of my Exhibit 1) were the direct result of voluntary requests initiated at the CPUC by CME. All such requests occurred subsequent to this Board's 1997 decision approving a CME merger and indicating the Board's belief that, in great part, CME was subject to the Board's jurisdiction.

6. Colorado law requires common carriers to file rate schedules and charges together with all related rules and regulations. *See* Section 40-3-103, C.R.S. CME's rate schedule, as known as a tariff, sets forth the rates, terms, rules, regulations, and conditions of CME's

intrastate transportation service as of the tariff's effective date. The tariff is required by law in furtherance of the public convenience and necessity. A copy of CME's tariff in effect on September 29-30, 2003, Colorado PUC No. 12, is attached as Exhibit 2. Exhibit 2 consists of Colorado PUC No. 12 preceded by General Adoption Notice Nos. 1, 2, and 6, which adoption notices reflect the outcome of CME-initiated CPUC regulatory activity directly resulting from and consistent with the mergers approved by the Board.

7. In September 2003, I began an investigation of CME's transportation business. CME's transportation business is only conducted to and from points in Colorado; CME does not serve any points outside of Colorado. As part of that investigation, I accessed CME's website on September 29-30, 2003. The website advertises transportation rates and allows customers to reserve transportation between a variety of locations. I reviewed the advertised rates for a number of destinations within Colorado and compared the advertised rates with the rates in CME's then-effective tariff on file with the CPUC. The rates advertised were different than those in CME's tariff on file with the CPUC.

8. On October 1, 2003, I issued Civil Penalty Assessment Notice or Notice of Complaint to Appear No. 28339-CPAN ("CPAN No. 28339") to CME. CPAN No. 28339 alleges sixteen violations of Section 40-10-117, C.R.S., for carrying or advertising to carry persons at rates different from those on file with the CPUC. A copy of CPAN No. 28339 is attached as Exhibit 3. Given the scope of my investigation, I intended to support my allegations only with evidence of "advertising to carry" persons at rates different than those on file with the CPUC. The charges involved in CPAN No. 28339 do not concern the regulation of CME's rates as such.

9. When CME declined to pay the fine, CPUC docketed CPAN No. 28339 as Docket No. 03G-472CP on or about October 29, 2003. Prior to the halting of the procedures in CPUC Docket No. 03G-472CP, on January 30, 2004, the CPUC Staff filed its Initial Witness List and Copies of Exhibits. A copy of this pleading is attached as Exhibit 4. It is apparent from this evidentiary submission to the CPUC, and specifically the description of the matters to which I would testify, that the enforcement action commenced by the CPUC Staff does not involve the charging or regulation of a specific rate. CPUC Staff's enforcement action concerns only the issue of advertising rates to the general public that are different from the rates on file at the CPUC (see page 2 of Exhibit 4). Moreover, the copies of exhibits filed with the pleading do not include a single exhibit supporting the actual charging or regulation of a specific rate. Contrary to CME's contention, the CPUC Staff's attempted action to assess a civil penalty to CME has no impact whatsoever on CME's right to conduct both legitimate interstate and intrastate operations pursuant to its federally-issued certificates, and has no impact whatsoever on rate regulation as such. Because the CPUC Staff's allegations against CME go only to the failure of CME to give notice of its rate changes so that its rates on file with the CPUC would have matched the rates advertised on its website, CPUC Staff's enforcement action is not an attempt to regulate the rates CME charges.

10. While the CPUC may no longer believe that CME provides a "substantial" portion of its operations in interstate commerce, CPUC Staff framed CPAN No. 28339 to be authorized under both Colorado and federal law, thereby avoiding the need to address the question of whether CME, in 2003, was operating in full compliance with its federally issued certificates. Moreover, to the extent CME were to raise the "substantial" interstate operations

issue as an affirmative defense in Docket No. 03G-472CP, the CPUC would be qualified to apply the longstanding federal standard for what constitutes *bona fide* and substantial regular route interstate motor carrier operations under a federally issued certificate, which certificate conditionally permits the simultaneous provision of intrastate transportation service.

11. CME has repeatedly invoked the jurisdiction of the CPUC since this Board issued its 1997 merger approval decision. By its applications and tariff filings, CME obviously accepts that the CPUC has jurisdiction over certain aspects of its operations.

12. For example in 1998 and 2003, CME and its merger partner initiated applications with the CPUC seeking CPUC recognition of the respective mergers. The relevant Commission decisions are attached as Exhibit 5 and Exhibit 6.

13. Similarly, on November 20, 2003, and after the commencement of the CPUC enforcement proceeding (Docket No. 03G-472CP) that CME has challenged as preempted, CME filed a revised tariff with CPUC, Colorado PUC No. 2, to adjust its intrastate transportation rates on file with the CPUC. *See* Exhibit 7. The rates filed in Colorado PUC No. 2 included all scheduled service routes and corrected the rates to match those advertised on CME's website on September 29-30, 2003. *See* Exhibit 7, p. 10. Like it has typically done for prior CME tariff requests, the CPUC took no action on Colorado PUC No. 2, allowing it to become effective by operation of law. *See* Exhibit 8. Review of the approved tariff clearly shows that CPUC certificated carriers that operate on schedule in intrastate commerce have substantial flexibility in designing their service offerings, including the ability to offer the payment of commissions and the offering of discounts and group rates.

14. On December 31, 2003, CME voluntarily filed a time schedule revision application with the CPUC. *See* Exhibit 9. CME sought CPUC approval of a revision to its time schedule on file with the CPUC under the CPUC's expedited approval process. The CPUC order approving the time schedule change is attached as Exhibit 10.

15. In 2002, CME voluntarily sought CPUC approval of matters related to driver hours of service record keeping under the 49 C.F.R. § 350.341(d), which regulation applies only to motor carriers "not subject to Federal regulation." Attached as Exhibit 11 is both CME's application and the CPUC's Order Granting Waiver in CPUC Docket No. 02A-172CP-Waiver. CME's application relies expressly on a driver's "Record of Active Duty Status" to explain its request for a CPUC waiver. Given that the federal regulation relied on by CME in its CPUC waiver application expressly only applies to motor carriers "not subject to Federal regulation," CME must have viewed its scheduled operations as intrastate at that time or else the application would not have been necessary.

16. Finally, from time to time since 1997, CME has sought to suspend and abandon certain of its scheduled operations set forth in CPUC CPCN No. 7321 and to seek a related rewrite of its CPUC operating authority. These voluntary applications have continued even subsequent to the filing of the instant Board proceeding despite CME's argument before the Board that it conducts its scheduled operations under its federal operating certificates. The CPUC's approval of one such application is attached as Exhibit 12.

17. As demonstrated by the above examples, CME has historically conducted its business with the CPUC as if it was actively operating its CPUC-issued intrastate authority (CPUC CPCN No. 7321). Other than CME's bare assertion that it has now elected to operate its

intrastate scheduled service under its federally issued certificates, I have seen no change in CME's regulatory activity before the CPUC over the last eight years. CME still files applications and tariff change requests with the CPUC and still intervenes in CPUC proceedings commenced by other motor carriers to protect its rights as a monopolist (a copy of an October 2003 notice of intervention of right is attached as Exhibit 13). Importantly, the only logical conclusions to be drawn from CME's continued practice of noticing and placing on file with the CPUC of the its updated rates and schedules, while simultaneously seeking federal review of issues related to its operations, are: (1) CME admits that its corporate business plan includes the provision of CPUC-regulated, intrastate, scheduled operations in the transportation of passengers to and from Colorado's major airports, and (2) CME wants the protections of CPUC regulation and, at the same time, wants to disavow CPUC's legitimate regulatory authority over CME itself.

Dated this 6th day of September, 2005.

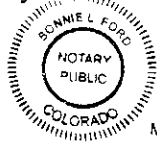
GARY GRAMLICK

Gary Gramlick

STATE OF COLORADO)
) ss:
COUNTY OF)

Subscribed and affirmed, or sworn to, before me in the County of Denver,
State of Colorado, this 6th day of September, 2005.

My Commission Expires: 4-30-08



Bonnie L. Ford
Notary Public
State of Colorado
My Commission Expires 4-30-08

Bonnie L. Ford
Notary Public

EXHIBIT 1

LETTER OF AUTHORITY

Issued By
Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO

1580 LOGAN STREET

DENVER, COLORADO 80203

ISSUED TO:

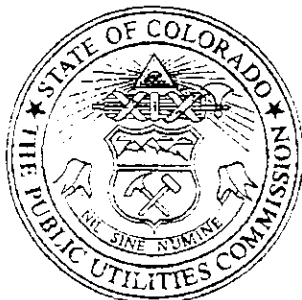
Certificate Number: 7321

East West Resort Transportation LLC
Colorado Mountain Express &/or CME Premier &/or
Premier VIP Transportation &/or Resort Express
P O Box 580
Vail, CO 81658

I. Transportation of passengers and their baggage in scheduled service: A) between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand; B) between Denver, Colorado, and Rifle, Colorado via I-70 and U.S. Highway No. 6 serving all intermediate points; and in addition serving all off-route points within one mile of said routes located west of a line drawn north and south through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado; C) between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek Road serving all intermediate points, all off-route points located within one mile of said route and serving the off-route points of Snowmass Village and Snowmass Ski Resort; D) between Frisco, Colorado, and Blue River, Colorado via Colorado State Highway No. 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado; E) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions: 1) Item A is restricted: (i) to service that originates or terminates within the County of Eagle, State of Colorado; and (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1

(S E A L)



11/7 -
**CONTINUOUS
UNTIL REVOKED. CANCELED.
SUSPENDED. ALTERED. OR AMENDED**

THIS LETTER OF AUTHORITY MUST BE CARRIED IN THE CAB
OF EACH AND EVERY VEHICLE OPERATED UNDER THE
ABOVE AUTHORITY NUMBER.

LETTER OF AUTHORITY

Issued By
Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO

1580 LOGAN STREET

DENVER, COLORADO 80203

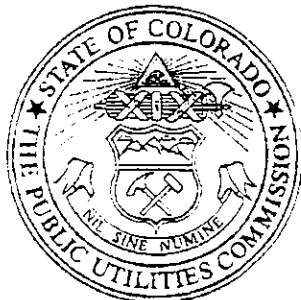
of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver. 2) Item B is restricted against providing service between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand. 3). Authority is expressly granted to tack Items B, C, and D with each other to provide a through transportation service. 4) Item E is restricted against the use of four-wheel drive vehicles.

II. Transportation of passengers and their baggage in call-and-demand limousine service:

A) between Denver International Airport and Denver Union Station and points within a two-mile radius of Denver Union Station, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand; B) between all points located within a 60-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado and between said points, on the one hand, and all points in the State of Colorado, on the other hand; C) between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand; D) between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand; E) from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; F) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions: 1)Item A is restricted: (i) to service that either originates or terminates within the County of Eagle, State of Colorado; (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver. 2) Item B is restricted: (i) to the use of vehicles with a passenger capacity of 14 or less excluding the driver; (ii) against any service which originates or terminates in the County of Eagle, State of Colorado; and (iii)

(S E A L)



**CONTINUOUS~
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SUSPENDED, ALTERED, OR AMENDED**

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LETTER OF AUTHORITY

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Department of Regulatory Agencies

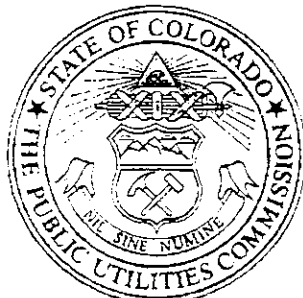
THE PUBLIC UTILITIES COMMISSION
OFFICE LEVEL TWO 1580 LOGAN STREET
DENVER, COLORADO 80203

such that any service to points in Eagle, Summit, or Lake Counties, must originate or terminate within a 15-mile radius of the intersection of Mill and Main Streets in Aspen. 3) To the extent that Item B and Item C overlap, only one operating right exists. 4) Item F is restricted against the use of four-wheel drive vehicles.

III. Transportation, in charter service, of passengers and their baggage, A) between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado; B) between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand; C) between all points located within a 50-mile radius of Vail, Colorado; D) between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand; E) from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; F) from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; G) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions: 1) Item A is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver. 2) Item C is restricted: (i) to providing service that must either originate or terminate within the County of Eagle, State of Colorado; and (ii) against providing service that originates or terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado. 3) Items E and F are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year. 4) Item G is restricted against the use of four-wheel drive vehicles.

(S E A L)



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LETTER OF AUTHORITY

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Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO

1580 LOGAN STREET

DENVER, COLORADO 80203

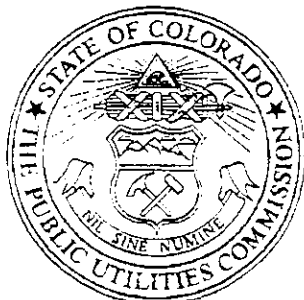
IV. Transportation of passengers and their baggage in special bus service: A) between all points within the County of Eagle, State of Colorado, and between said points, on the one hand, and all points located within Leadville, Colorado and a ten-mile radius thereof, on the other hand; B) between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado; C) between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand; D) from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; E) from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; F) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions: 1) Item A is restricted to service that either originates or terminates within the County of Eagle, State of Colorado. 2) Item B is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver. 3) Items D and E are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year. 4) Item F is restricted against the use of four-wheel drive vehicles.

Decision No. C03-0607

Mailed Date: June 4, 2003

(S E A L)



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SUSPENDED, ALTERED, OR AMENDED**

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EXHIBIT 2

General Adoption Notice No. 1

Colorado PUC No. 1

And

Adoption Supplement No. <u>5</u>	to Colo. PUC No. <u>5</u>
Adoption Supplement No. <u>3</u>	to Colo. PUC No. <u>5</u>
Adoption Supplement No. <u>2</u>	to Colo. PUC No. <u>7</u>
Adoption Supplement No. <u>2</u>	Time Schedule No. <u>1</u>
Adoption Supplement No. <u>2</u>	Time Schedule No. <u>49</u>
Adoption Supplement No. <u>3</u>	to Colo. PUC No. <u>12</u>

East West Resort Transportation, LLC, dba Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express

This utility makes its own in every respect as if originally filed by it, all tariffs, classification, rules, notices, agreements, statements of divisions, powers of attorney, concurrences, and other instruments, including supplements or amendments, filed with the Colorado Public Utilities Commission by or previously adopted by

Colorado Mountain Express, LLC

before the below effective date.

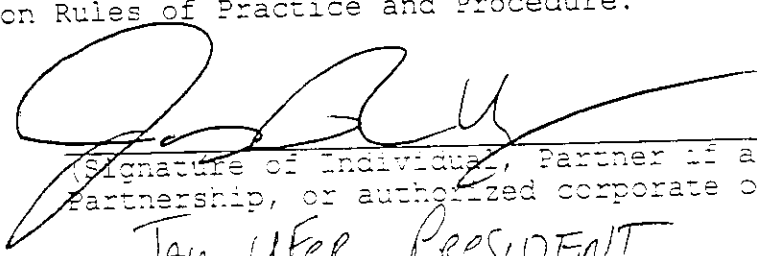
Each tariff to which this is a supplement became the tariff of the issuing utility upon the effective date shown below, under this adoption notice.

Issued: Aug. 4, 2003

Effective: Aug. 5, 2003

Issued under authority of Decision No. C03-0607, dated 6-4-03, and Rule 33, Commission Rules of Practice and Procedure.

(Seal)


(Signature of Individual, Partner of a Partnership, or authorized corporate officer.)

Jay Ufer, President

PO Box 580

Address

MAIL CO 81658-0580

Telephone Number

970-226-9800

If a corporation

Attest:

Secretary

RECEIVED

AUG 4 2003

PUBLIC UTILITIES COMMISSION
STATE OF COLORADO

General Adoption Notice No. 2

Colorado PUC No. 2

and

Adoption Supplement No. 4 to Colo. PUC No. 5

Adoption Supplement No. 2 to Colo. PUC No. 11

Adoption Supplement No. 2 to Colo. PUC No. 12

Adoption Supplement No. 1 to Time Schedule 1

Colorado Mountain Express, LLC

This utility makes its own in every respect as if originally filed by it, all tariffs, classification, rules, notices, agreements, statements of divisions, powers of attorney, concurrences, and other instruments, including supplements or amendments, filed with the Colorado Public Utilities Commission by or previously adopted by

Airport Shuttle Colorado, Inc.

before the below effective date.

Each tariff to which this is a supplement became the tariff of the issuing utility upon the effective date shown below, under this adoption notice.

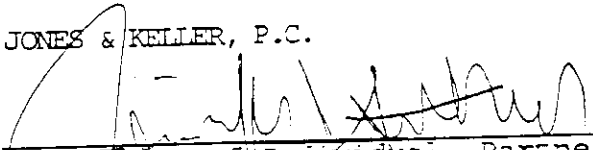
Issued: September 9, 1999

Effective: September 10, 1999

Issued under authority of Decision No. C99-821, dated August 3, 1999, and Rule 33 or 42 (Form G), Commission Rules of Practice and Procedure.

JONES & KELLER, P.C.

(Seal)


(Signature of Individual, Partner if a Partnership, or authorized corporate officer)

Jennifer L. Arthur
1625 Broadway, Suite 1600, Denver, CO 80202
Address

(303) 573-1600

Telephone Number

Attorneys for Colorado Mountain Express, L.L.C.

(If a corporation)

Attest.

Secretary

RECEIVED

SEP 10 1999
THE PUBLIC UTILITIES COMMISSION
THE STATE OF COLORADO

General Adoption Notice No. 6
Colorado PUC No. 5
and
Adoption Supplement No. 1 to Colo. PUC No. 11
Adoption Supplement No. 1 to Colo. PUC No. 12
Adoption Supplement No. 1 to Time Schedule 12
Adoption Supplement No. to Colo. PUC No.

Airport Shuttle Colorado, Inc.

This utility makes its own in every respect as if originally filed by it, all tariffs, classification, rules, notices, agreements, statements of divisions, powers of attorney, concurrences, and other instruments, including supplements or amendments, filed with the Colorado Public Utilities Commission by or previously adopted by

Aspen Limousine Service, Inc. dba Vans to Vail, Inc.

except:_____

before the below effective date.

Each tariff to which this is a supplement became the tariff of the issuing utility upon the effective date shown below, under this adoption notice.


Issued: June 24, 1996

Effective: June 25, 1996

6/24/96

Issued under authority of Name Change Letter, dated _____, and Rule 33 or 42 (Form G), Commission Rules of Practice and Procedure.

(Seal)


(Signature of Individual, Partner if a Partnership, or authorized corporate officer)
Warren L. Reuther, Jr., Chairman and CEO
c/o Hospitality Enterprises, 27 Poydras Street Wharf
Address New Orleans, LA 70130
(504) 529-4567
Telephone Number _____

(If a corporation)

Attest:

James E. Smith
Secretary

Colo. PUC 12
Cancels
2**, 2***
3***, 4***
6***, 9***
9**, 10***

Aspen Limousine Service, Inc.
d/b/a
Vans to Vail, Inc.
Vans to Breckenridge, Inc.

Certificate 14912 (In Part)

Passenger Tariff Colo. PUC 12

Naming

Rates, Rules and Regulations

For

the transportation

of

PASSENGERS AND THEIR BAGGAGE
(On Schedule)

Between

Denver
And Points in Colorado

And

All Other Points in Colorado

RECEIVED
OCT 20 1995

Issued October 20, 1995

Effective November 22, 1995

Issued by:
Robert M. Regulski, President
PO Box 1368
Glenwood Springs, CO 81602

Scope of Operation:

Certificate 14912 (I)

(A) Transportation of passengers and their baggage, on schedule.

(I) Between Denver, Colorado and Rifle, Colorado via I-70 and US Highway No. 6 serving all intermediate points, all off-route points located within one mile of said routes located West of a line drawn North and South through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado.

(II) Between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek serving all intermediate points, all off-route points of Snowmass Village and Snowmass Ski Resort.

(III) Between Frisco, Colorado and Blue River, Colorado via Colorado State Highway No 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado.

authority is expressly granted to tack Items (A) (I) through (A) (III) with each other to provide a through transportation service.

Rules and Regulations

Animals

10

Animals will not be carried on board, except for animals accompanying the physically or visually impaired.

Baggage

15

Public passengers, not employees of resorts or inns will be allowed carry-on items. Exceptionally large items, such as bicycles and trunks, will not be considered carry-on and will be accommodated only as available space permits and at a charge of \$10.00 per item.

Missed Luggage

20

Luggage or other baggage items not transported with passenger due to fault of persons or entities other than carrier shall be charged as follows: (a) First three pieces, at the

governing per person rate plus \$10.00 handling charge; and (b) \$5.00 per each additional piece beyond three pieces.

25

Commissions

Commissions up to 30% may be paid to travel agents, tour operators and booking agents to whom the carrier has agreed to pay such commissions.

Discounts

26

Discounts may be offered to frequent travelers and groups of 25 or more people.

(A) Frequent Travelers: A person who uses our service as a commuter can purchase booklets of 10 and 20 non-refundable tickets that will be sold at a discounted price of 20% for each resort area.

(B) Groups: A group consists of 25 or more people who travel under a single group name, ie; US West, WCBR, NBS etc. Discounts are given based on number of people.

25-50 people 10% discount
51-150 people 15% discount
151-250 people 20% discount
251-plus people 30% discount

Roundtrip

Riders on the "Skiers Shuttle" will receive a \$10.00 discount on the return trip if a roundtrip is reserved at the time of booking.
See item 71

Monthly Passes

28

Monthly passes will be offered to the "Down Valley Employee scheduled" riders. The passes will be for a calendar month, non-refundable and non-transferable.
See item 72

31

Fares

Fares shown herein are for adults and children.

Child Fare: Children of age 12 and under.

children under 1 year of age in the lap of an accompanying adult will be carried free. Children occupying a seat who are of the age 12 and under will be charged the applicable child fare. Carrier will endeavor, but does not guarantee to have child restraint seats.
See item 70

35

Impracticable Operations

The carrier reserves the right to refuse to make any trip when weather, street or highway conditions render operation of the vehicle, in the sole and exclusive opinion of carrier or its employees, dangerous or impracticable, and to make such detours at any time should highway or street conditions render completion of any trip dangerous or impracticable.

40

Liability

The carrier does not guarantee to arrive at or depart from any point at a specified time, but will endeavor to maintain any schedule posted or published in accordance with this tariff. If any Act of God, public enemies, authority of law, quarantine, perils of navigation, riots, strikes, the hazards or dangers incident to State War, accidents, breakdowns, bad conditions of the road, snow storms and other conditions beyond its control, make it, in the sole and exclusive opinion of Carrier, inadvisable to operate the vehicle either from the place of origin or any points enroute, the carrier shall not be liable therefor. Carrier disclaims any responsibility of lost, stolen and damaged luggage or contents therein.

45

Objectionable Persons

The carrier reserves the right to refuse to transport any person who is under the influence of intoxicating liquors or drugs, or who is incapable of taking care of himself or herself, or who shows conduct which is such or is likely to be such, in carrier's sole and exclusive opinion, to make him or her objectionable to other passengers.

EXCEPTION: This rule does not apply to person who are ill and accompanied by an attendant or nurse.

50

Payment

Payment of fare will be accepted in US Currency credit cards

or checks**

** Payment by check will be accepted if received in the central office at least two weeks prior to travel date.

55

Refund Policy

If reservation is canceled more than 24 hours prior to travel, carrier will refund all monies received. If reservation is canceled within 24 hours of travel time, then monies will be refunded less a \$12.50 handling fee per reservation canceled.

60

Reservations

A reservation guarantees that the service will be provided.

RATES

65

Scheduled Service The following apply to Scheduled, one way service:

A. Denver (DIA), CO-Origin/Destination

Between Denver (DIA), CO and

	4/22-11/21	11/22-4/21
Silverplume, CO	\$25.00	\$25.00
Keystone, CO	35.00	38.00
Dillon, CO	35.00	38.00
Silverthorne, CO	35.00	38.00
Blue River, CO	35.00	38.00
Breckenridge, CO	35.00	38.00
Frisco, CO	35.00	38.00
Copper Mountain, CO	35.00	38.00
Vail/Beaver Creek, CO	39.00	49.00
Edwards/Cordillera, CO	59.00	59.00
Eagle County Airport, CO	59.00	59.00
Glenwood Springs, CO	59.00	59.00
Aspen, CO	69.00	79.00
Snowmass Village, CO	69.00	79.00

B. Other Origins/Destinations

Between

And

Aspen Snowmass, CO	Vail, CO	\$39.00
Aspen Snowmass, CO	Eagle County Airport, CO	\$39.00

Aspen/Snowmass, CO	Glenwood Springs, CO	20.00
Glenwood Springs, CO	Eagle County Airport, CO	25.00
Glenwood Springs, CO	Vail, CO	25.00
Vail/Beaver Creek, CO	Eagle County Airport., CO	26.00

C. Skier Shuttle

<u>Between</u>	<u>And</u>	
Vail, CO	Copper Mtn, CO	20.00*
Vail, CO	Breckenridge, CO	20.00*
Vail, CO	Keystone, CO	20.00*
Vail, CO	Frisco, CO	20.00*

*Special roundtrip fare \$30.00
See item 71

D. Rifle to Aspen Down Valley Employee Express

<u>Between</u>	<u>And</u>	
Rifle, CO	Glenwood, CO	2.50
Silt, CO	Glenwood, CO	2.50
New Castle, CO	Glenwood, CO	2.50
Rifle, CO	Aspen, CO	5.00
Silt, CO	Aspen, CO	5.00
New Castle, CO	Aspen, CO	5.00
Glenwood Springs, CO	Aspen, CO	4.50

Monthly passes:
Rifle/Silt/New Castle to Glenwood, CO 75.00
Rifle/Silt/New Castle to Aspen, CO 155.00
Glenwood to Aspen, CO 130.00

See item 72

E. Aspen to Snowmass Shuttle

Rubey Park/Butter Milk to Snowmass Village Mall	3.00
---	------

See item 73

F. Aspen to Maroon Lake Shuttle

Rubey Park to Maroon Lake	5.00
---------------------------	------

See item 74

Scheduled Service: The following Child fares apply to children of the age 12 and under on scheduled service.

way service.

A. Denver (DIA) Co. Origin/Destination

Between Denver (DIA), CO and;

Keystone, CO	\$25.00
Breckenridge, CO	25.00
Copper Mountain, CO	25.00
Dillon, CO	25.00
Silverthorne, CO	25.00
Blue River, CO	25.00
Frisco, CO	25.00
Vail/Beaver Creek, CO	25.00
Edwards/Cordillera, CO	25.00
Glenwood Springs, CO	35.00
Aspen, CO	35.00
Snowmass Village, CO	35.00
Eagle County Airport, CO	35.00

B. Other Origins/Destinations

Between	And	
Eagle County Airport, CO	Vail/Beaver Creek, CO	\$15.00
Eagle County Airport, CO	Aspen/Snowmass, CO	15.00
Eagle County Airport, CO	Edwards/Cordillera, CO	15.00
Eagle County Airport, CO	Glenwood Springs, CO	15.00
Vail/Beaver Creek, CO	Aspen/Snowmass, CO	15.00

71

Skier Shuttle
Daily Schedule
effective November 22 through April 21
Summit to Vail

Departing Breckenridge	
Beaver run	7:05am
Hilton	7:10am
Village at Breckenridge	7:15am
Bell Tower Mall	7:20am
Marriott Mtn Valley Lodge	7:25am

Departing Keystone	-	
Keystone Lodge		7:15am
Dillon Mall		7:25am
Pizza Hut		7:35am
Recreational Shopping		7:40am

vans meet at the Best Western in Frisco	7:45am
Copper Mountain Plaza	8:00am

Van arrives at the Vail Transportation Center 8:20-8:30am

Returning: Vail to Summit County

Departing Vail	
Vail Transportation Center	4:30pm
Copper Mountain Plaza	4:55pm
Best Western Frisco	5:05pm

Arriving Breckenridge	
Bell Tower Mall	5:25pm
Marriott Mtn Valley Lodge	5:30pm
Village at Breckenridge	5:35pm
Hilton	5:40pm
Beaver Run	5:45pm

Arriving Keystone	
Acorn/Shopping	5:15pm
Pizza Hut	5:20pm
Dillon Mall	5:35pm
Keystone Lodge	5:45pm

Vail to Summit

Departing Vail	
Vail Transportation Center	8:30am
Copper Mountain Plaza	8:55am
Best Western Frisco	9:05am

Arriving Breckenridge	
Beaver Run	9:30am

Arriving Keystone	
Acorn/shopping	9:10am
Pizza Hut	9:15am
Dillon Mall	9:20am
Keystone Lodge	9:30am

Departing Breckenridge	
Beaver Run	6:00pm
Hilton	6:05pm
Village at Breckenridge	6:10pm
Bell Tower Mall	6:15pm
Marriott Mtn Valley Lodge	6:20pm

Departing Keystone	
Keystone Lodge	6:00pm
Dillon Mall	6:15pm
Pizza Hut	6:30pm
Acorn/Shopping	6:35pm

Vans meet at Best western in Frisco	6:40pm
Copper Mountain Plaza	6:55pm

Down Valley Employee Express
effective November 20 through April 21
Daily Service

Rifle (Texaco)	7:00am
Cottonwood Trailer Park	7:04am
Silt Municipal Bldg	7:10am
New Castle (Post office)	7:20am
Glenwood Springs (West 7-11)	7:30am
Glenwood Springs (9th and Grand)	7:35am
Glenwood Springs (True Value)	7:40am
Brush Creek & 82	8:35am
Airport Business Center (RFTA Bus Stop)	8:40am
Rubey Park (Wagner Park on Durant)	8:50am

RETURN

Rubey Park (Wagner Park on Durant)	4:15pm
Airport Business Center (Entrance on 82 nearest gas station)	4:25pm
Brush Creek & 82	4:30pm
Glenwood Springs (Center Drug)	5:25pm
Glenwood springs (9th and Grand)	5:30pm
Glenwood Springs (west 7-11)	5:35pm
New castle (Post office)	5:45pm
Silt Municipal Bldg	5:55pm
Cottonwood Trailer park	6:00pm
Rifle (Texaco)	6:05pm

Aspen to Snowmass Shuttle

Aspen/Buttermilk to Snowmass Village Mall
8:00am-2:30am every half hour

Snowmass Village Mall to Butter Milk/Aspen
8:00am-2:30am every half hour

Aspen to Maroon Lake

Aspen to Maroon Lake
8:00am-6:00pm every half hour

Maroon Lake to Aspen
8:30am-6:30pm every half hour

effective 6-18 through 9-15

EXHIBIT 3

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

NO. 28339-CPAN

Public Utilities Commission of the State of Colorado

v.

East West Resort Transportation, LLC, dba Colorado Mountain Express, and/or CME Premier, and/or
Premier VIP Transportation, and/or Resort Express, a/k/a Colorado Mountain Express, LLC

Certificate 7321

P. O. Box 580

Vail, CO 81658

Page 1 of 3

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
1	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Keystone, Colorado, and Denver International Airport, Denver, Colorado.	\$400
2	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Vail, Colorado, and Denver International Airport, Denver, Colorado.	\$400
3	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Glenwood Springs, Colorado, and Denver International Airport, Denver, Colorado.	\$400
4	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Denver International Airport, Denver, Colorado.	\$400
5	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Vail, Colorado.	\$400
6	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Glenwood Springs, Colorado.	\$400
7	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Eagle, Colorado.	\$400
8	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Glenwood Springs, Colorado, and Vail, Colorado.	\$400

No.	Date of Violation	Violation Cite	Nature of Violation	Place of Violation	Penalty
9	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Keystone, Colorado, and Denver International Airport, Denver, Colorado.	\$400
10	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Vail, Colorado, and Denver International Airport, Denver, Colorado.	\$400
11	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Glenwood Springs, Colorado, and Denver International Airport, Denver, Colorado.	\$400
12	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Denver International Airport, Denver, Colorado.	\$400
13	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Vail, Colorado.	\$400
14	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Glenwood, Springs, Colorado.	\$400
15	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Eagle, Colorado.	\$400
16	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Glenwood Springs, Colorado, and Vail, Colorado.	\$400

Total Penalty: \$6,400

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE.

Respondent's Signature

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATIONS HEREIN.

Respondent's Signature

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT COMMITTED THE VIOLATIONS CITED AND AFFIRMS THAT A COPY OF THIS CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR WAS DULY SERVED UPON THE RESPONDENT.

COMPLAINANT Gramlick
print last name

COMPLAINANT

Gary Gramlick
signature

INVESTIGATIVE PERSONNEL OF THE COLORADO PUBLIC UTILITIES COMMISSION
DATED THIS 1st day of October, 2003

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

This document provides you information about your options upon receipt of this notice. You may pay this civil penalty by mail or in person. Or, you may contest the penalty at a hearing. Please read carefully the following instructions.

CIVIL PENALTY ASSESSMENT NOTICE INSTRUCTIONS

The notice you have received is called a Civil Penalty Assessment Notice. The penalty for the alleged violation(s) is described on the reverse side. It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's Rules and Regulations Concerning Civil Penalties for Carriers. You may pay this penalty by mail or in person.

By paying the Civil Penalty Assessment, you acknowledge your liability.

Your payment may be made by money order or check. Do not mail cash. If the payment is mailed, it must be postmarked no later than **October 14, 2003**.

To receive credit for payment, please sign on the reverse side of this notice on the signature line adjacent to the statement "UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATION(S) HEREIN" and enclose this signed notice with the payment. The address to mail or pay in person is:

Public Utilities Commission
1580 Logan Street, Office Level Two
Denver, CO 80203

COMPLAINT TO APPEAR NOTICE INSTRUCTIONS

If you decide not to pay the penalty assessment by **October 14, 2003**, and want to contest it, you are required to contact the Public Utilities Commission by 4 p.m. on or before **October 24, 2003**, at 800/888-0170 ext. 2824, or 303/894-2824 ext. 2824 to set the alleged violation(s) for hearing. When you call the Commission, be prepared to provide dates when you will be available to attend a hearing on this issue. If you fail to contact the Commission before 4 p.m. on the date shown, the Commission shall set the hearing date without any preference to your wishes. You will be notified about the hearing date. If you are under 18 years of age, you must be accompanied by a parent or a guardian at the hearing.

Copy Distribution:	#1	Commission Records	#3	Transportation
	#2	Respondent	#4	Colorado Attorney General

EXHIBIT 4

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 03G-472CP
Civil Penalty Assessment Notice No.28339

2004-11-22 09:14:21

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

Complainant,

v.

EAST WEST RESORT TRANSPORTATION, LLC, dba COLORADO MOUNTAIN EXPRESS, and/or CME PREMIER, and/or PREMIER VIP TRANSPORTATION, and/or RESORT EXPRESS, a/k/a COLORADO MOUNTAIN EXPRESS, LLC.

Respondent.

**STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION'S
INITIAL WITNESS LIST AND COPIES OF EXHIBITS**

Staff of the Public Utilities Commission of the State of Colorado (Staff), through its counsel, the Colorado Attorney General, submits its initial witness list, copies of exhibits, and notice of possible exhibits in the above-captioned docket, in accordance with Decision No. R04-0007-I.

I. WITNESSES

Staff may call the following witnesses:

- A. Gary Gramlick
Transportation Rate/Financial Analyst
Colorado Public Utilities Commission
1580 Logan Street, OL-1
Denver, Colorado 80203
(303) 894-2870

Mr. Gramlick is expected to testify about Staff's investigation of Respondent's advertised passenger transportation rates for scheduled service on September 29-30, 2003, Respondent's Commission-approved tariff, and Staff's issuance of Civil Penalty Assessment Notice No. 28339-CPAN to Respondent. Mr. Gramlick will sponsor any and all exhibits Staff may offer for admission at the hearing, including, but not limited to, the exhibits listed below.

- B. Any witness necessary for rebuttal or impeachment.
- C. Any witness endorsed by any other party.
- D. Any witness unknown at this time but identified to the parties at least five (5) days prior to hearing.

II. EXHIBITS

Staff may seek admission of the following exhibits:

- A. Civil Penalty Assessment Notice or Notice of Complaint to Appear No. 28339-CPAN (CPAN No. 28339).
- B. U.S. Postal Service Return Receipt, signed by Nancy Graves on October 10, 2003.
- C. Respondent's Passenger Tariff, as adopted effective August 5, 2003 through a series of adoptions (Aspen Limousine Service, Inc. d/b/a Vans to Vail, Inc. and Vans to Breckenridge, Inc. Colorado PUC No. 12 (effective November 22, 1995)).
- D. Colorado Mountain Express (CME) internet web page printout listing rates for transportation from Denver International Airport to "Keystone, Breckenridge, Copper Mtn. & Surrounding Areas," dated September 29, 2003.

E. CME internet web page printout listing rates for transportation from Denver International Airport to "Vail Valley & Beaver Creek (Selected Door to Door Service)," dated September 29, 2003.

F. CME internet web page printout listing rates for transportation from Denver International Airport to Glenwood Springs, dated September 29, 2003.

G. CME internet web page printout listing rates for transportation from Denver International Airport to "Aspen & Snowmass Areas (Selected Door to Door Service)," dated September 29, 2003.

H. CME internet web page printout listing rates for transportation from "Aspen & Snowmass Areas (Selected Door to Door Service)" to "Vail Valley & Beaver Creek (Selected Door to Door Service)," dated September 29, 2003.

I. CME internet web page printout listing rates for transportation from "Aspen & Snowmass Areas (Selected Door to Door Service)" to Glenwood Springs, dated September 29, 2003.

J. CME internet web page printout listing rates for transportation from "Aspen & Snowmass Areas (Selected Door to Door Service)" to "Eagle Airport – Arriving/Departing on Commercial Airline," dated September 29, 2003.

K. CME internet web page printout listing rates for transportation from Glenwood Springs to "Vail Valley & Beaver Creek (Selected Door to Door Service)," dated September 29, 2003.

L. CME internet web page printout listing rates for transportation from Denver International Airport to "Keystone, Breckenridge, Copper Mtn. & Surrounding Areas," dated September 30, 2003.

M. CME internet web page printout listing rates for transportation from Denver International Airport to "Vail Valley & Beaver Creek (Selected Door to Door Service)," dated September 30, 2003.

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Q. CME internet web page printout listing rates for transportation from "Aspen & Snowmass Areas (Selected Door to Door Service)" to Glenwood Springs, dated September 30, 2003.

R. CME internet web page printout listing rates for transportation from "Aspen & Snowmass Areas (Selected Door to Door Service)" to "Eagle Airport – Arriving/Departing on Commercial Airline," dated September 30, 2003.

S. CME internet web page printout listing rates for transportation from Glenwood Springs to "Vail Valley & Beaver Creek (Selected Door to Door Service)," dated September 30, 2003.

T. Any exhibit or document provided or obtained in response to any data request or in response to discovery.

U. Any exhibit necessary for cross-examination, redirect examination, rebuttal or impeachment.

V. Any exhibit necessary for identification or foundation.

W. Any exhibit offered and/or endorsed by any other party.

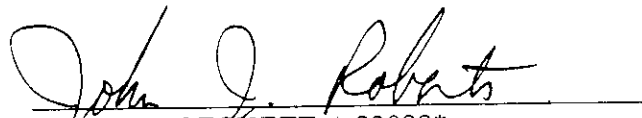
X. Any exhibit not known at this time, disclosed to the parties at least five (5) days prior to hearing.

Y. Such other and further exhibits or documents as may become necessary and/or relevant during the course of this proceeding.

DATED this 30th day of January 2004.

Respectfully submitted,

KEN SALAZAR
Attorney General


DAVID A. BECKETT, # 23098*
JOHN J. ROBERTS, # 30124*
Assistant Attorneys General
Business and Licensing Section

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-5135
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Fax: (303) 866-5395
Email: david.beckett@state.co.us
Email: jj.roberts@state.co.us

Attorneys for Staff of the Colorado Public Utilities
Commission

*Counsel of Record

AGALPHA RG PL DFOUX
AGFILE PIRLRLROBEJUPUC03G-472CP CMEWE LIST 912904 DCC

CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR

NO. 28339-CPAN

Public Utilities Commission of the State of Colorado

v.
East West Resort Transportation, LLC, dba Colorado Mountain Express, and/or CME Premier, and/or
Premier VIP Transportation, and/or Resort Express, a/k/a Colorado Mountain Express, LLC
Certificate 7321

P. O. Box 580

Vail, CO 81658

Page 1 of 3

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6	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Glenwood, Springs, Colorado.	\$400
7	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Eagle, Colorado.	\$400
8	9-29-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Glenwood Springs, Colorado, and Vail, Colorado.	\$400

No.	Date of Violation	Violation Site	Nature of Violation	Place of Violation	Penalty
9	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Keystone, Colorado, and Denver International Airport, Denver, Colorado.	\$400
11	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Vail, Colorado, and Denver International Airport, Denver, Colorado.	\$400
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12	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Denver International Airport, Denver, Colorado.	\$400
13	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Vail, Colorado.	\$400
14	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Glenwood, Springs, Colorado.	\$400
15	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Aspen, Colorado, and Eagle, Colorado.	\$400
16	9-30-03	40-10-117, C.R.S.	Carrying and advertising to carry persons at rates different from those on file with the Commission.	Glenwood Springs, Colorado, and Vail, Colorado.	\$400

Total Penalty: \$6,400

I HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTICE.

Respondent's Signature

UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATIONS HEREIN.

Respondent's Signature

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE RESPONDENT COMMITTED THE VIOLATIONS CITED AND AFFIRMS THAT A COPY OF THIS CIVIL PENALTY ASSESSMENT NOTICE OR NOTICE OF COMPLAINT TO APPEAR WAS DULY SERVED UPON THE RESPONDENT.

COMPLAINANT Gramlick
print last name

COMPLAINANT

Gary Gramlick
signature

INVESTIGATIVE PERSONNEL OF THE COLORADO PUBLIC UTILITIES COMMISSION
DATED THIS 1st day of October, 2003

THIS IS A LEGAL DOCUMENT -- PLEASE READ ALL ENCLOSED INFORMATION

This document provides you information about your options upon receipt of this notice. You may pay this civil penalty by mail or in person. Or, you may contest the penalty at a hearing. Please read carefully the following instructions.

CIVIL PENALTY ASSESSMENT NOTICE INSTRUCTIONS

The notice you have received is called a Civil Penalty Assessment Notice. The penalty for the alleged violation(s) is described on the reverse side. It is the prescribed penalty for the stated violation(s) as required by law and specified in the Public Utilities Commission's Rules and Regulations Concerning Civil Penalties for Carriers. You may pay this penalty by mail or in person.

By paying the Civil Penalty Assessment, you acknowledge your liability.

Your payment may be made by money order or check. Do not mail cash. If the payment is mailed, it must be postmarked no later than **October 14, 2003**.

To receive credit for payment, please sign on the reverse side of this notice on the signature line adjacent to the statement "UPON PAYMENT OF THIS ASSESSMENT, I ACKNOWLEDGE LIABILITY OF ALL VIOLATION(S) HEREIN" and enclose this signed notice with the payment. The address to mail or pay in person is:

Public Utilities Commission
1580 Logan Street, Office Level Two
Denver, CO 80203

COMPLAINT TO APPEAR NOTICE INSTRUCTIONS

If you decide not to pay the penalty assessment by October 14, 2003, and want to contest it, you are required to contact the Public Utilities Commission by 4 p.m. on or before October 24, 2003, at 303.888-0170 ext. 2824, or 303.894-2824 ext. 1824 to set the alleged violation's for hearing. When you call the Commission, be prepared to provide dates when you will be available to attend a hearing on this issue. If you fail to contact the Commission before 4 p.m. on the date shown, the Commission shall set the hearing date without any preference to your wishes. You will be notified about the hearing date. If you are under 18 years of age, you must be accompanied by a parent or a guardian at the hearing.

Copy Distribution:	#1	Commission Records	#3	Transportation
	#2	Respondent	#4	Colorado Attorney General

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

Colorado Mountain, Express, LLC
P. O. Box 580
Vail, CO 81658

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Nancy Graves B. Date of Delivery 8-10-03
C. Signature x Nancy Graves ☐ Agent ☐ Addressee
D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type ☐ Express Mail
☒ Certified Mail ☐ Return Receipt for Merchandise
☐ Registered ☐ C.O.D.
☐ Insured Mail ☐ Yes
4. Restricted Delivery? (Extra Fee) ☐ Yes

2 Article Number (Copy from service label)

410-655

PS Form 3811, July 1999

Domestic Return Receipt

102595 00 M 0952

General Adoption Notice No. 1

Colorado PUC No. 1

And

Adoption Supplement No. <u>1</u>	to Colo. PUC No. <u>1</u>
Adoption Supplement No. <u>2</u>	to Colo. PUC No. <u>1</u>
Adoption Supplement No. <u>3</u>	to Colo. PUC No. <u>1</u>
Adoption Supplement No. <u>4</u>	Time Schedule No. <u>1</u>
Adoption Supplement No. <u>5</u>	Time Schedule No. <u>1</u>
Adoption Supplement No. <u>6</u>	to Colo. PUC No. <u>12</u>

East West Resort Transportation, LLC, dba Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express

This utility makes its own in every respect as if originally filed by it, all tariffs, classification, rules, notices, agreements, statements of divisions, powers of attorney, concurrences, and other instruments, including supplements or amendments, filed with the Colorado Public Utilities Commission by or previously adopted by

Colorado Mountain Express, LLC

before the below effective date.

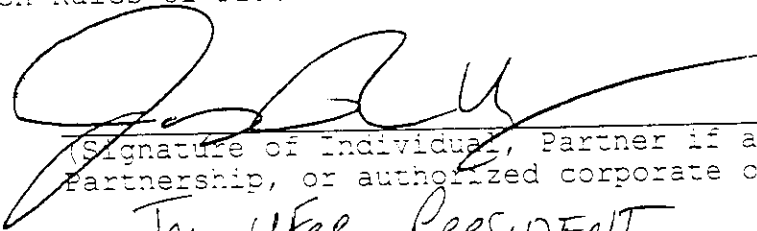
Each tariff to which this is a supplement became the tariff of the issuing utility upon the effective date shown below, under this adoption notice.

Issued: Aug. 4, 2003

Effective: Aug. 5, 2003

Issued under authority of Decision No. C03-0607, dated 6-4-03, and Rule 33, Commission Rules of Practice and Procedure.

(Seal)


(Signature of Individual, Partner if a Partnership, or authorized corporate officer)

Jay Ufer, President

PO Box 580

Address VALE, CO 81658-0580

Telephone Number 1-970-926-9800

(If a corporation)

Attest:

Secretary

RECEIVED

AUG 4 2003

PUBLIC UTILITIES COMMISSION
STATE OF COLORADO

General Adoption Notice No. 2

Colorado PUC No. 2

and

Adoption Supplement No. 4 to Colo. PUC No. 5

Adoption Supplement No. 2 to Colo. PUC No. 11

Adoption Supplement No. 2 to Colo. PUC No. 12

Adoption Supplement No. 1 to Time Schedule 1

Colorado Mountain Express, LLC

This utility makes its own in every respect as if originally filed by it, all tariffs, classification, rules, notices, agreements, statements of divisions, powers of attorney, concurrences, and other instruments, including supplements or amendments, filed with the Colorado Public Utilities Commission by or previously adopted by

Airport Shuttle Colorado, Inc.

before the below effective date.

Each tariff to which this is a supplement became the tariff of the issuing utility upon the effective date shown below, under this adoption notice.

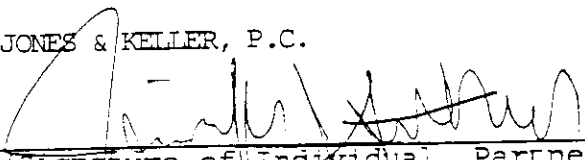
Issued: September 9, 1999

Effective: September 10, 1999

Issued under authority of Decision No. C99-821, dated August 3, 1999, and Rule 33 or 42 (Form G), Commission Rules of Practice and Procedure.

(Seal)

JONES & KELLER, P.C.


(Signature of individual, Partner if a Partnership, or authorized corporate officer)

Jennifer L. Arthur

1625 Broadway, Suite 1600, Denver, CO 80202
Address

(303) 573-1600

Telephone Number

Attorneys for Colorado Mountain Express, L.L.C.

(If a corporation)

Attest:

Secretary

RECEIVED

SEP 9 1999

THE PUBLIC UTILITIES COMMISSION
THE STATE OF COLORADO

General Adoption Notice No. 6
Colorado PUC No. 6

and

Adoption Supplement No. 1 to Colo. PUC No. 11
Adoption Supplement No. 1 to Colo. PUC No. 12
Adoption Supplement No. 1 to Time Schedule 12
Adoption Supplement No. to Colo. PUC No.

Airport Shuttle Colorado, Inc.

This utility makes its own in every respect as if originally filed by it, all tariffs, classification, rules, notices, agreements, statements of divisions, powers of attorney, concurrences, and other instruments, including supplements or amendments, filed with the Colorado Public Utilities Commission by or previously adopted by

Aspen Limousine Service, Inc. dba Vans to Vail, Inc.

except: _____

before the below effective date.

Each tariff to which this is a supplement became the tariff of the issuing utility upon the effective date shown below, under this adoption notice.


Issued: June 24, 1996

Effective: June 25, 1996

6/24/96

Issued under authority of Name Change Letter, dated _____, and Rule 33 or 42 (Form G), Commission Rules of Practice and Procedure.

(Seal)


(Signature of Individual, Partner if a Partnership, or authorized corporate officer)
Warren L. Reuther, Jr., Chairman and CEO
c/o Hospitality Enterprises, 27 Poydras Street Wharf
Address New Orleans, LA 70130
(504) 529-4567
Telephone Number _____

(If a corporation)

Attest:

James E. Smith
Secretary

Colo. PUC 12
Can. Ce. 10
2***, 2***
3***, 4***
5***, 9***
10***, 10***

Aspen Limousine Service, Inc.
d/b/a
Vans to Vail, Inc.
Vans to Breckenridge, Inc.

Certificate 14912 (In Part)

Passenger Tariff Colo. PUC 12

Naming

Rates, Rules and Regulations

For

the transportation

of

PASSENGERS AND THEIR BAGGAGE
(On Schedule)

Between

Denver

And Points in Colorado

And

All Other Points in Colorado

RECEIVED
OCT 20 1995

Issued October 20, 1995

Effective November 22, 1995

Issued by:
Robert M. Regulski, President
PO Box 1368
Glenwood Springs, CO 81602

Scope of Operation:

Certificate 14912 (I)

(A) Transportation of passengers and their baggage, on schedule.

(I) Between Denver, Colorado and Rifle, Colorado via I-70 and US Highway No. 6 serving all intermediate points, all off-route points located within one mile of said routes located West of a line drawn North and South through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado.

(II) Between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek serving all intermediate points, all off-route points of Snowmass Village and Snowmass Ski Resort.

(III) Between Frisco, Colorado and Blue River, Colorado via Colorado State Highway No 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado.

authority is expressly granted to tack Items (A) (I) through (A) (III) with each other to provide a through transportation service.

Rules and Regulations

Animals

10

Animals will not be carried on board, except for animals accompanying the physically or visually impaired.

Baggage

15

Public passengers, not employees of resorts or inns will be allowed carry-on items. Exceptionally large items, such as bicycles and trunks, will not be considered carry-on and will be accommodated only as available space permits and at a charge of \$10.00 per item.

Missed Luggage

20

Luggage or other baggage items not transported with passenger due to fault of persons or entities other than carrier, shall be charged as follows: (a) First three pieces, at the

governing per person rate plus \$10.00 handling charge; and (b) \$5.00 per each additional piece beyond three pieces.

25

Commissions

Commissions up to 30% may be paid to travel agents, tour operators and booking agents to whom the carrier has agreed to pay such commissions.

26

Discounts

Discounts may be offered to frequent travelers and groups of 25 or more people.

(A) Frequent Travelers: A person who uses our service as a commuter can purchase booklets of 10 and 20 non-refundable tickets that will be sold at a discounted price of 20% for each resort area.

(B) Groups: A group consists of 25 or more people who travel under a single group name, ie; US West, WCBR, NBS etc. Discounts are given based on number of people.

25-50 people 10% discount
51-150 people 15% discount
151-250 people 20% discount
251-plus people 30% discount

Roundtrip

Riders on the "Skiers Shuttle" will receive a \$10.00 discount on the return trip if a roundtrip is reserved at the time of booking.
See item 71

Monthly Passes

28

Monthly passes will be offered to the "Down Valley Employee scheduled" riders. The passes will be for a calendar month, non-refundable and non-transferable.
See item 72

30

Fares

Fares shown herein are for adults and children.

Child Fares: Children of the age 12 and under.

children under 1 year of age in the lap of an accompanying adult will be carried free. Children occupying a seat who are of the age 12 and under will be charged the applicable child fare. Carrier will endeavor, but does not guarantee to have child restraint seats.
(See item 70)

35

Impracticable Operations

The carrier reserves the right to refuse to make any trip when weather, street or highway conditions render operation of the vehicle, in the sole and exclusive opinion of carrier or its employees, dangerous or impracticable, and to make such detours at any time should highway or street conditions render completion of any trip dangerous or impracticable.

40

Liability

The carrier does not guarantee to arrive at or depart from any point at a specified time, but will endeavor to maintain any schedule posted or published in accordance with this tariff. If any Act of God, public enemies, authority of law, quarantine, perils of navigation, riots, strikes, the hazards or dangers incident to State War, accidents, breakdowns, bad conditions of the road, snow storms and other conditions beyond its control, make it, in the sole and exclusive opinion of Carrier, inadvisable to operate the vehicle either from the place of origin or any points enroute, the carrier shall not be liable therefor. Carrier disclaims any responsibility of lost, stolen and damaged luggage or contents therein.

45

Objectionable Persons

The carrier reserves the right to refuse to transport any person who is under the influence of intoxicating liquors or drugs, or who is incapable of taking care of himself or herself, or who shows conduct which is such or is likely to be such, in carrier's sole and exclusive opinion, to make him or her objectionable to other passengers.

EXCEPTION: This rule does not apply to person who are ill and accompanied by an attendant or nurse.

50

Payment

Payment of fare will be accepted in US Currency, credit cards

or checks**

** Payment by check will be accepted if received in the central office at least two weeks prior to travel date.

55

Refund Policy

If reservation is canceled more than 24 hours prior to travel, carrier will refund all monies received. If reservation is canceled within 24 hours of travel time, then monies will be refunded less a \$12.50 handling fee per reservation canceled.

60

Reservations

A reservation guarantees that the service will be provided.

RATES

65

Scheduled Service The following apply to Scheduled, one way service:

A. Denver (DIA), CO-Origin/Destination

Between Denver (DIA), CO and

	4/22-11/21	11/22-4/21
Silverplume, CO	\$25.00	\$25.00
Keystone, CO	35.00	38.00
Dillon, CO	35.00	38.00
Silverthorne, CO	35.00	38.00
Blue River, CO	35.00	38.00
Breckenridge, CO	35.00	38.00
Frisco, CO	35.00	38.00
Copper Mountain, CO	35.00	38.00
Vail/Beaver Creek, CO	39.00	49.00
Edwards/Cordillera, CO	59.00	59.00
Eagle County Airport, CO	59.00	59.00
Glenwood Springs, CO	59.00	59.00
Aspen, CO	69.00	79.00
Snowmass Village, CO	69.00	79.00

B. Other Origins/Destinations

Between

And

Aspen/Snowmass, CO	Vail, CO	\$39.00
Aspen/Snowmass, CO	Eagle County Airport, CO	39.00

Aspen/Snowmass, CO	Glenwood Springs, CO	20.00
Glenwood Springs, CO	Eagle County Airport, CO	25.00
Glenwood Springs, CO	Vail, CO	25.00
Vail/Beaver Creek, CO	Eagle County Airport., CO	26.00

C. Skier Shuttle

<u>Between</u>	<u>And</u>	
Vail, CO	Copper Mtn, CO	20.00*
Vail, CO	Breckenridge, CO	20.00*
Vail, CO	Keystone, CO	20.00*
Vail, CO	Frisco, CO	20.00*

*Special roundtrip fare \$30.00
See item 71

D. Rifle to Aspen Down Valley Employee Express

<u>Between</u>	<u>And</u>	
Rifle, CO	Glenwood, CO	2.50
Silt, CO	Glenwood, CO	2.50
New Castle, CO	Glenwood, CO	2.50
Rifle, CO	Aspen, CO	5.00
Silt, CO	Aspen, CO	5.00
New Castle, CO	Aspen, CO	5.00
Glenwood Springs, CO	Aspen, CO	4.50

Monthly passes:

Rifle/Silt/New Castle to Glenwood, CO	75.00
Rifle/Silt/New Castle to Aspen, CO	155.00
Glenwood to Aspen, CO	130.00

See item 72

E. Aspen to Snowmass Shuttle

Rubey Park/Butter Milk to Snowmass Village Mall	3.00
---	------

See item 73

F. Aspen to Maroon Lake Shuttle

6/15-9/15

Rubey Park to Maroon Lake	5.00
---------------------------	------

See item 74

70

Scheduled Service: The following Child fares apply to children of the age 12 and under on scheduled, one-

way service.

A. Denver (DIA) Co. Origin/Destination

Between Denver (DIA), CO and;

Keystone, CO	\$25.00
Breckenridge, CO	25.00
Copper Mountain, CO	25.00
Dillon, CO	25.00
Silverthorne, CO	25.00
Blue River, CO	25.00
Frisco, CO	25.00
Vail/Beaver Creek, CO	25.00
Edwards/Cordillera, CO	25.00
Glenwood Springs, CO	35.00
Aspen, CO	35.00
Snowmass Village, CO	35.00
Eagle County Airport, CO	35.00

B. Other Origins/Destinations

Between	And	
Eagle County Airport, CO	Vail/Beaver Creek, CO	\$15.00
Eagle County Airport, CO	Aspen/Snowmass, CO	15.00
Eagle County Airport, CO	Edwards/Cordillera, CO	15.00
Eagle County Airport, CO	Glenwood Springs, CO	15.00
Vail/Beaver Creek, CO	Aspen/Snowmass, CO	15.00

71

Skier Shuttle
Daily Schedule
effective November 22 through April 21
Summit to Vail

Departing Breckenridge	
Beaver run	7:05am
Hilton	7:10am
Village at Breckenridge	7:15am
Bell Tower Mall	7:20am
Marriott Mtn Valley Lodge	7:25am

Departing Keystone	-	
Keystone Lodge		7:15am
Dillon Mall		7:25am
Pizza Hut		7:35am
Acorn/Shopping		7:40am

vans meet at the Best Western in Frisco	7:45am
Copper Mountain Plaza	8:00am

Van arrives at the Vail Transportation Center 8:20-8:30am

Returning: Vail to Summit County

Departing Vail	
Vail Transportation Center	4:30pm
Copper Mountain Plaza	4:55pm
Best Western Frisco	5:05pm

Arriving Breckenridge	
Bell Tower Mall	5:25pm
Marriott Mtn Valley Lodge	5:30pm
Village at Breckenridge	5:35pm
Hilton	5:40pm
Beaver Run	5:45pm

Arriving Keystone	
Acorn/Shopping	5:15pm
Pizza Hut	5:20pm
Dillon Mall	5:35pm
Keystone Lodge	5:45pm

Vail to Summit

Departing Vail	
Vail Transportation Center	8:30am
Copper Mountain Plaza	8:55am
Best Western Frisco	9:05am

Arriving Breckenridge	
Beaver Run	9:30am

Arriving Keystone	
Acorn/shopping	9:10am
Pizza Hut	9:15am
Dillon Mall	9:20am
Keystone Lodge	9:30am

Departing Breckenridge	
Beaver Run	6:00pm
Hilton	6:05pm
Village at Breckenridge	6:10pm
Bell Tower Mall	6:15pm
Marriott Mtn Valley Lodge	6:20pm

Departing Keystone	
Keystone Lodge	6:00pm
Dillon Mall	6:15pm
Pizza Hut	6:30pm
Acorn/Shopping	6:35pm

Vans meet at Best western in Frisco	6:40pm
Copper Mountain Plaza	6:55pm

72

Down Valley Employee Express
effective November 20 through April 31
Daily Service

Rifle (Texaco)	7:00am
Cottonwood Trailer Park	7:04am
Silt Municipal Bldg	7:10am
New Castle (Post office)	7:20am
Glenwood Springs (West 7-11)	7:30am
Glenwood Springs (9th and Grand)	7:35am
Glenwood Springs (True Value)	7:40am
Brush Creek & 82	8:35am
Airport Business Center (RFTA Bus Stop)	8:40am
Rubey Park (Wagner Park on Durant)	8:50am

RETURN

Rubey Park (Wagner Park on Durant)	4:15pm
Airport Business Center (Entrance on 82 nearest gas station)	4:25pm
Brush Creek & 82	4:30pm
Glenwood Springs (Center Drug)	5:25pm
Glenwood springs (9th and Grand)	5:30pm
Glenwood Springs (west 7-11)	5:35pm
New castle (Post office)	5:45pm
Silt Municipal Bldg	5:55pm
Cottonwood Trailer park	6:00pm
Rifle (Texaco)	6:05pm

73

Aspen to Snowmass Shuttle

Aspen/Buttermilk to Snowmass Village Mall
8:00am-2:30am every half hour

Snowmass Village Mall to Butter Milk/Aspen
8:00am-2:30am every half hour

74

Aspen to Maroon Lake

Aspen to Maroon Lake
8:00am-6:00pm every half hour -

Maroon Lake to Aspen
8:30am-6:30pm every half hour

effective 6-15 through 9-15

CME COLORADO MOUNTAIN EXPRESS

Providing Excellence in Mountain Travel Since 1980

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LOOKUP RATES

Travel From

Travel To

Date

RATES & AVAILABLE SERVICES



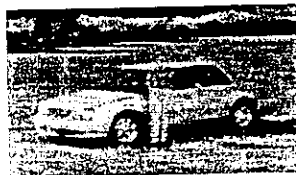
DAILY SHUTTLE SERVICE VAN DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

- *\$53.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
- *Service provided by Resort Express
- *Spacious 10 passenger maxi vans.
- *Door-to-door service to most lodging locations
- *Numerous daily departures



CHARTERED VAN DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

- *\$440.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
- *Service provided by Resort Express
- *Private chauffeured travel, maximum 10 guests.
- *Spacious maxi vans



PREMIER CADILLAC DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

- *\$319.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 3 guests
- *Complementary bottled water

PREMIER SUBURBAN DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

- *\$411.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation





*Private chauffeured travel, maximum 8 guests.

*VCR and complementary movies onboard
*Complementary bottled water



**PREMIER EXECUTIVE VAN
DENVER INT'L AIRPORT/KEYSTONE,
BRECKENRIDGE, COPPER MOUNTAIN &
SURROUNDING AREA**

**\$572.00 per vehicle one way. Rate includes \$20.00 surcharge,
includes gratuity*

*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 8 guests.
*Individual seats
*VCR and Complementary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

BOOK A RESERVATION!

Phone: (800) 525 6363 or (970) 926 9800

All fares subject to change.

2

CME COLORADO MOUNTAIN EXPRESS

Providing Excellence in Mountain Travel Since 1983

TOLL Free 1-800-979-9797



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Travel From

Travel To

Date

[Check Rates](#)

RATES & AVAILABLE SERVICES



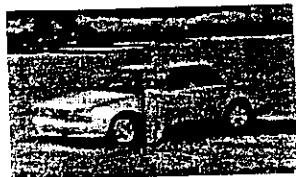
DAILY SHUTTLE SERVICE VAN DENVER INT'L AIRPORT/VAIL VALLEY

*\$63.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included.
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN DENVER INT'L AIRPORT/VAIL VALLEY

*\$495.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included.
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC DENVER INT'L AIRPORT/VAIL VALLEY

*\$342.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity.
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complimentary bottled water



PREMIER SUBURBAN DENVER INT'L AIRPORT/VAIL VALLEY

*\$457.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity.
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 6 guests.
*VCR and complimentary movies onboard
*Complimentary bottled water

PREMIER EXECUTIVE VAN DENVER INT'L AIRPORT/VAIL VALLEY

*\$687.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity.
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 6 guests





Individual seats
WCR and Complementary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

BOOK A RESERVATION!

Phone: (800) 525 6363 or (970) 926 9800

All fares subject to change.

3

CME COLORADO MOUNTAIN EXPRESS

Providing Excellence in Mountain Travel Since 1983

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Travel To

Date

RATES & AVAILABLE SERVICES



DAILY SHUTTLE SERVICE DENVER INT'L AIRPORT/GLENWOOD SPRINGS AREA

*\$69.00 per person one way. Rate includes \$3.00 per person
surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Drop off at Hotel Colorado

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject
to change and may vary from the estimates presented on this page. Exact pricing including any
discounts will be confirmed during reservation booking process once availability is confirmed.

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All fares subject to change.



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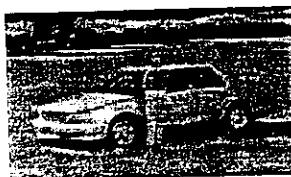
DAILY SHUTTLE SERVICE DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

*\$103.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous Daily Departures



CHARTERED VAN DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

*\$790.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

*\$572.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complementary bottled water



PREMIER SUBURBAN DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

*\$733.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complementary movies onboard
*Complementary bottled water

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**DENVER INT'L AIRPORT/ASPEN &
SNOWMASS AREAS**

- *\$1032.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity.
- *Service provided by Premier VIP Transportation.
- *Private chauffeured travel, maximum 8 guests.
- *Individual seats.
- *VCR and Complimentary movies and bottled water.

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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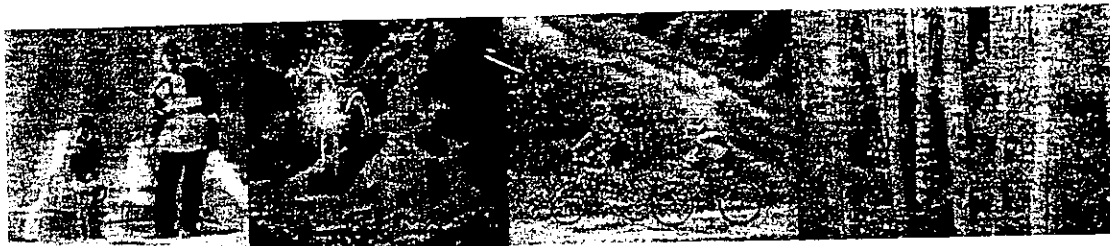
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LOOKUP RATES

Travel From: ASPEN & SNOWMASS AREAS (SELECTED DOOR TO DOOR SERVICE)

Travel To: VAIL VALLEY & BEAVER CREEK (SELECTED DOOR TO DOOR SERVICE)

Date: September 29 2003

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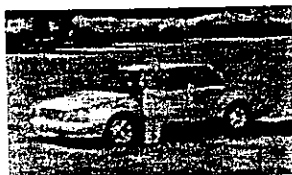
RATES & AVAILABLE SERVICES



DAILY SHUTTLE SERVICE VAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$53.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$495.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$342.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complementary bottled water

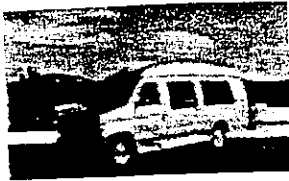


PREMIER SUBURBAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$434.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complementary movies onboard
*Complementary bottled water

PREMIER EXECUTIVE VAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$565.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests



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*Individual seats

*VCR and Complementary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

BOOK A RESERVATION!

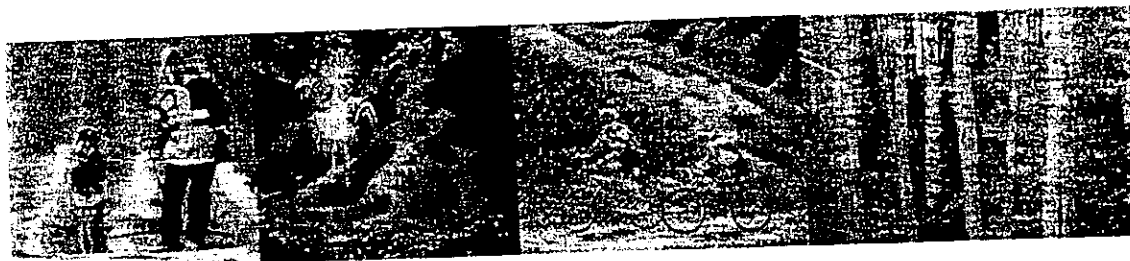
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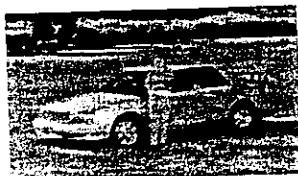
DAILY SHUTTLE SERVICE VAN ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$45.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$200.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$204.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complimentary bottled water



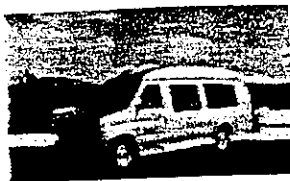
PREMIER SUBURBAN ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$273.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complementary movies onboard
*Complimentary bottled water

PREMIER EXECUTIVE VAN



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ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$399.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 6 guests
*Individual seats
*VCR and Complimentary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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DAILY SHUTTLE SERVICE VAN ASPEN & SNOWMASS AREAS/EAGLE AIRPORT

*\$53.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN ASPEN & SNOWMASS AREAS/EAGLE AIRPORT

*\$480.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC ASPEN & SNOWMASS AREAS/EAGLE AIRPORT

*\$342.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complementary bottled water



PREMIER SUBURBAN ASPEN & SNOWMASS AREAS/EAGLE AIRPORT

*\$455.72 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests
*VCR and complementary movies onboard
*Complementary bottled water

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**ASPEN & SNOWMASS AREAS/EAGLE
AIRPORT**

- *\$594.55 per vehicle one way. Rate includes \$90.00 surcharge
- includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 8 guests
- *Individual seats
- *VCR and Complementary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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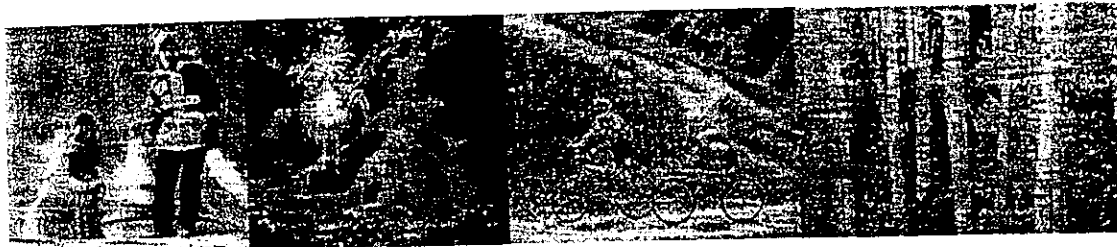
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RATES & AVAILABLE SERVICES



DAILY SHUTTLE SERVICE VAN GLENWOOD SPRINGS/VAIL VALLEY

*\$45.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



PREMIER CADILLAC GLENWOOD SPRINGS/VAIL VALLEY

*\$250.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complementary bottled water



PREMIER SUBURBAN GLENWOOD SPRINGS/VAIL VALLEY

*\$296.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complementary movies onboard
*Complementary bottled water



PREMIER EXECUTIVE VAN GLENWOOD SPRINGS/VAIL VALLEY

*\$342.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 8 guests
*Individual seats
*VCR and Complementary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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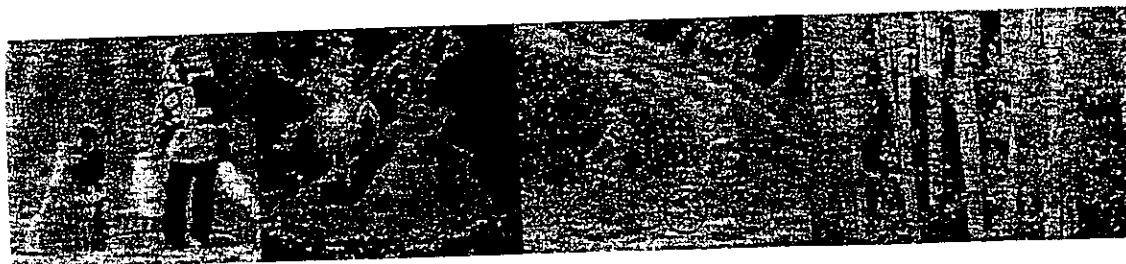
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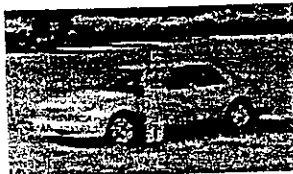
DAILY SHUTTLE SERVICE VAN DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

*\$53.00 per person one way. Rate includes \$3.00 per person
surcharge, gratuity not included
*Service provided by Resort Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

*\$440.00 per vehicle one way. Rate includes \$20.00 surcharge,
gratuity not included
*Service provided by Resort Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

*\$319.00 per vehicle one way. Rate includes \$20.00 surcharge,
includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complementary bottled water

PREMIER SUBURBAN DENVER INT'L AIRPORT/KEYSTONE, BRECKENRIDGE, COPPER MOUNTAIN & SURROUNDING AREA

*\$411.00 per vehicle one way. Rate includes \$20.00 surcharge,
includes gratuity

*Service provided by Premier VIP Transportation



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DAILY SHUTTLE SERVICE VAN DENVER INT'L AIRPORT/VAIL VALLEY

- *\$63.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
- *Service provided by Colorado Mountain Express
- *Spacious 10 passenger maxi vans.
- *Door-to-door service to most lodging locations
- *Numerous daily departures



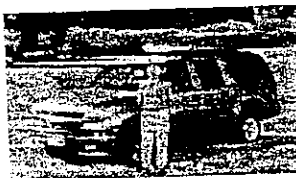
CHARTERED VAN DENVER INT'L AIRPORT/VAIL VALLEY

- *\$495.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
- *Service provided by Colorado Mountain Express
- *Private chauffeured travel, maximum 10 guests.
- *Spacious maxi vans



PREMIER CADILLAC DENVER INT'L AIRPORT/VAIL VALLEY

- *\$342.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 3 guests.
- *Complimentary bottled water



PREMIER SUBURBAN DENVER INT'L AIRPORT/VAIL VALLEY

- *\$457.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 6 guests.
- *VCR and complimentary movies onboard
- *Complimentary bottled water

PREMIER EXECUTIVE VAN DENVER INT'L AIRPORT/VAIL VALLEY

- *\$667.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 6 guests



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DAILY SHUTTLE SERVICE DENVER INT'L AIRPORT/GLENWOOD SPRINGS AREA

- *\$69.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
- *Service provided by Colorado Mountain Express
- *Spacious 10 passenger maxi vans.
- *Drop off at Hotel Colorado

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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LOOKUP RATES

Travel From: DENVER INT'L AIRPORT
Travel To: ASPEN & SNOWMASS AREAS (SELECTED DOOR TO DOOR SERVICE)
Date: September 30 2003

SEARCH RATES

RATES & AVAILABLE SERVICES



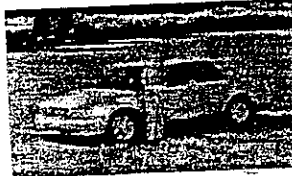
DAILY SHUTTLE SERVICE DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

- *\$103.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
- *Service provided by Colorado Mountain Express
- *Spacious 10 passenger maxi vans.
- *Door-to-door service to most lodging locations
- *Numerous Daily Departures



CHARTERED VAN DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

- *\$790.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
- *Service provided by Colorado Mountain Express
- *Private chauffeured travel, maximum 10 guests.
- *Spacious maxi vans



PREMIER CADILLAC DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

- *\$572.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 3 guests.
- *Complimentary bottled water



PREMIER SUBURBAN DENVER INT'L AIRPORT/ASPEN & SNOWMASS AREAS

- *\$703.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 6 guests.
- *VCR and complimentary movies onboard
- *Complimentary bottled water

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LOOKUP RATES

Travel From **ASPEN & SNOWMASS AREAS (SELECTED DOOR TO DOOR SERVICE)**
Travel To **VAIL VALLEY & BEAVER CREEK (SELECTED DOOR TO DOOR SERVICE)**
Date **September 30 2003**

NOTED: RATES ARE PER PERSON

RATES & AVAILABLE SERVICES



DAILY SHUTTLE SERVICE VAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$63.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$495.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$342.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complementary bottled water



PREMIER SUBURBAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$434.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complementary movies onboard
*Complementary bottled water

PREMIER EXECUTIVE VAN
ASPEN & SNOWMASS AREAS/VAIL VALLEY
*\$595.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.





*Individual seats

*VCR and Complementary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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LOOKUP RATES

Travel From: ASPEN & SNOWMASS AREAS (SELECTED DOOR TO DOOR SERVICE)

Travel To: GLENWOOD SPRINGS

Date: September 30 2003

RATES & AVAILABLE SERVICES



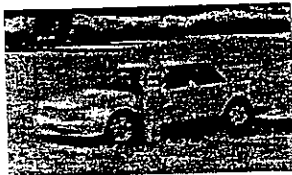
DAILY SHUTTLE SERVICE VAN ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$45.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



CHARTERED VAN ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$200.00 per vehicle one way. Rate includes \$20.00 surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Private chauffeured travel, maximum 10 guests.
*Spacious maxi vans



PREMIER CADILLAC ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

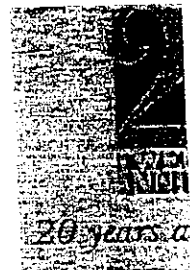
*\$204.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complimentary bottled water

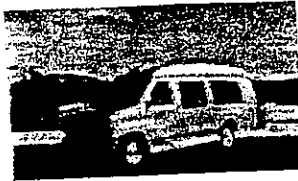


PREMIER SUBURBAN ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

*\$273.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complimentary movies onboard
*Complimentary bottled water

PREMIER EXECUTIVE VAN





ASPEN & SNOWMASS AREAS/GLENWOOD SPRINGS

- *\$319.00 per vehicle one way. Rate includes \$20.00 surcharge includes gratuity.
- *Service provided by Premier VIP Transportation
- *Private chauffeured travel, maximum 8 guests
- *Individual seats
- *VCR and Complimentary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.

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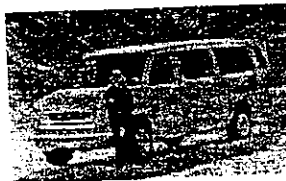
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Travel To: EAGLE AIRPORT - ARRIVING/DEPARTING ON COMMERCIAL AIRLINE
Date: September 30, 2003

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RATES & AVAILABLE SERVICES



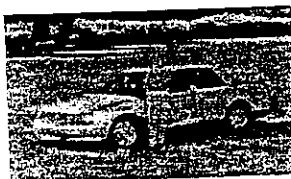
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*\$53.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
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*VCR and Complementary movies and bottled water

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LOOKUP RATES

Travel From: **GLENWOOD SPRINGS**
Travel To: **VAIL VALLEY & BEAVER CREEK (SELECTED DOOR TO DOOR SERVICE)**
Date: **September 30 2003**

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RATES & AVAILABLE SERVICES



DAILY SHUTTLE SERVICE VAN GLENWOOD SPRINGS/VAIL VALLEY

*\$45.00 per person one way. Rate includes \$3.00 per person surcharge, gratuity not included
*Service provided by Colorado Mountain Express
*Spacious 10 passenger maxi vans.
*Door-to-door service to most lodging locations
*Numerous daily departures



PREMIER CADILLAC GLENWOOD SPRINGS/VAIL VALLEY

*\$250.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 3 guests.
*Complimentary bottled water



PREMIER SUBURBAN GLENWOOD SPRINGS/VAIL VALLEY

*\$295.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*VCR and complimentary movies onboard
*Complimentary bottled water



PREMIER EXECUTIVE VAN GLENWOOD SPRINGS/VAIL VALLEY

*\$342.00 per vehicle one way. Rate includes \$20.00 surcharge, includes gratuity
*Service provided by Premier VIP Transportation
*Private chauffeured travel, maximum 5 guests.
*Individual seats
*VCR and Complimentary movies and bottled water

*Above prices are estimates based on rack rate fares and first date of travel. Exact pricing is subject to change and may vary from the estimates presented on this page. Exact pricing including any discounts will be confirmed during reservation booking process once availability is confirmed.



BOOK A RESERVATION:

::: Welcome to Colorado Mountain Express :::

Page 2 of 2

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION'S INITIAL WITNESS LIST AND COPIES OF EXHIBITS upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, or as otherwise indicated, at Denver, Colorado, this 30th day of January 2004, addressed as follows:

East West Resort Transportation, LLC
dba Colorado Mountain Express
P.O. Box 580
Vail, CO 81658

Thomas J. Burke, Esq.
JONES & KELLER, PC
World Trade Center
1625 Broadway, 16th Fl.
Denver, CO 80202

**Gary Gramlick
Public Utilities Commission
1580 Logan Street
Office Level 2
Denver, CO 80203
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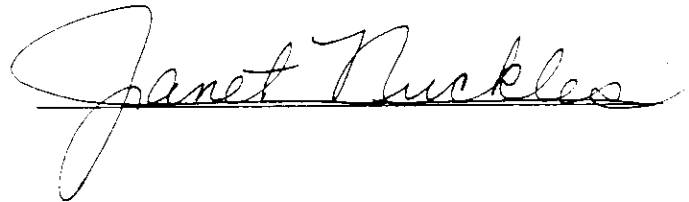


EXHIBIT 5

Decision No. C99-821

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 98M-551CP

IN THE MATTER OF THE MERGER OF COLORADO MOUNTAIN EXPRESS, INC. AND
AIRPORT SHUTTLE COLORADO, INC. INTO COLORADO MOUNTAIN EXPRESS, A
DELAWARE LIMITED LIABILITY COMPANY.

**ORDER RECOGNIZING MERGER, CONDITIONALLY
ISSUING CONSOLIDATED CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY,
AND SETTING FORTH FILING REQUIREMENTS**

Mailed Date: August 3, 1999

Adopted Date: July 28, 1999

I. BY THE COMMISSION:

Statement, Findings, and Conclusions

1. This matter comes before the Colorado Public Utilities Commission ("Commission") for consideration of the notification of merger filed jointly by Colorado Mountain Express, Inc. ("CME"), and Airport Shuttle Colorado, Inc. ("ASC"), on November 25, 1998.

2. CME and ASC formally consummated their merger into Colorado Mountain Express, a Delaware limited liability company, on November 4, 1998 through the completion of a federal review process under 49 U.S.C. § 14303. Since CME and ASC each own certificates of public convenience and necessity ("CPCNs") issued by this Commission, the instant notification and request

for acknowledgment is required. Based on the material presented, the Commission will acknowledge the merger subject to the conditions set forth below.

3. The Commission construes the request for acknowledgment as an abbreviated application for approval of a CPCN transfer. The primary purpose for considering CME's and ASC's request is to ensure that the entity operating the CPCNs and the name of the insured entity are accurately reflected in the Commission's records.

4. With respect to the CPCNs, the Commission finds that four CPCNs will now be held by the single entity--Colorado Mountain Express, a Delaware limited liability company. The affected CPCNs are PUC Nos. 7321, 14912, 16261, and 51505. The Commission will combine the authority described by the four CPCNs into a single CPCN to be issued to Colorado Mountain Express, a Delaware limited liability company, to eliminate the material duplicating and overlapping operating rights. Rule 3.5.4 of the Commission's Rules, Regulations, and Civil Penalties Governing Common Carriers of Passengers by Motor Vehicle for Hire, 4 *Code of Colorado Regulations* 723-31 ("Rule 4 CCR 723-31-3.5.4"), requires the elimination of duplicating operating rights since the Commission does not believe the retention of the duplication is in the public interest.

5. In performing its duty under Rule 4 CCR 723-31-3.5.4, the Commission has stricken those operating rights paragraphs which permit operations that may be performed under a broader operating right. The Commission has also rewritten the generic operating rights previously set forth in CPCN PUC Nos. 14912 and 16261 by breaking up the operating right into the various transportation types to which it applies. To the extent the generic operating rights described one-way sightseeing service, the Commission has stricken those rights since all sightseeing service must be round-trip service. Finally, the Commission has deleted the authority to transport property (CPCN PUC No. 7321, ¶ III.) since the Commission no longer has authority to regulate this transportation.

6. Colorado Mountain Express, a Delaware limited liability company, shall be permitted to hold authority as described in Appendix A to this Decision. The rewrite of the authority does not diminish the rights described in the four CPCNs identified above.

7. The Commission further finds that Colorado Mountain Express, a Delaware limited liability company, must file a certificate of insurance in its name. This standard requirement of all jurisdictional transportation utilities, as well as the other standard requirements described in the ordering paragraphs below, must be fulfilled in order for

Colorado Mountain Express, a Delaware limited liability company, to conduct lawful operations under the CPCN conditionally issued by this Order.

II. ORDER

A. The Commission Orders That:

1. The merger of Colorado Mountain Express, Inc., and Airport Shuttle Colorado, Inc., into Colorado Mountain Express, a Delaware limited liability company, is hereby acknowledged.

2. Colorado Mountain Express, a Delaware limited liability company, shall be granted the authority to provide transportation services as described in Certificate of Public Convenience and Necessity PUC Nos. 7321, 14912, 16261, and 51505.

3. The full and complete authority to be held by Colorado Mountain Express, a Delaware limited liability company, shall read as set forth in Appendix A to this Decision. Upon completion of all administrative requirements of the Commission, Colorado Mountain Express, Inc., and Airport Shuttle Colorado, Inc., shall cease to hold any certificate of public convenience and necessity issued by this Commission. The authority shall be set forth in a single certificate of public convenience and necessity and may be assigned either a new number or one of the

four numbers used by the applicants prior to the merger. Colorado Mountain Express, a Delaware limited liability company, shall notify the Commission of its preference no later than the filing of its certificate of insurance.

4. The right of Colorado Mountain Express, a Delaware limited liability company, to operate under this Decision shall depend upon its compliance with all present and future laws and Commission rules and regulations, and the prior filing by Colorado Mountain Express, Inc., and Airport Shuttle Colorado, Inc., of any delinquent reports, if any, covering operations under their respective certificates up to the completion of all filing requirements set forth in this Decision. Colorado Mountain Express, a Delaware limited liability company, shall cause certificates of insurance to be filed with the Commission as required by Commission rules. Colorado Mountain Express, a Delaware limited liability company, shall also pay the vehicle identification fee. The tariffs of rates, rules, and regulations of Colorado Mountain Express, Inc., pertaining to Certificate of Public Convenience and Necessity PUC No. 7321, and of Airport Shuttle Colorado, Inc., pertaining to Certificate of Public Convenience and Necessity PUC Nos. 14912, 16261, and 51505, shall, upon adoption notice, become and remain those of Colorado Mountain Express, a Delaware

limited liability company, until changed in accordance with controlling law and applicable Commission rules and regulations.

5. The joint applicants shall comply with the requirements of the preceding paragraphs within 60 days. On good cause shown, the Commission may grant additional time for compliance, if the request is filed within 60 days.

6. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

7. This Decision is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING July 28, 1999.

(SEAL)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

VINCENT MAJKOWSKI

ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

ROBERT J. HIX

Commissioners

I. Transportation of passengers and their baggage in **scheduled service:**

A. ~~and ski equipment, accessories, and supplies, between Stapleton International Airport in Denver, Colorado, and points within a one-mile radius thereof and Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand; 7321~~

B. between Denver, Colorado and Rifle, Colorado via I-70 and U.S. Highway No. 6 serving all intermediate points; and in addition serving all off-route points within one mile of said routes located west of a line drawn north and south through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado; 14912

C. between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek Road serving all intermediate points, all off-route points located within one mile of said route and serving the off-route points of Snowmass Village and Snowmass Ski Resort; 14912

D. between Frisco, Colorado, and Blue River, Colorado via Colorado State Highway No. 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado; 14912

E. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand. 16261

Restrictions:

1. Item A is restricted: (i) to service that originates or terminates within the County of Eagle, State of Colorado; and (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 and April 30; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver;

2. Item B is restricted against providing service between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;

3. Authority is expressly granted to tack Items B, C, and D with each other to provide a through transportation service.

4. Item E is restricted against the use of four-wheel drive vehicles;

II. Transportation of passengers and their baggage, in **taxicab service**:

A. between all points in the County of Eagle, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand; 7321

B. between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and ~~Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations,~~ on the other hand; 14912

C. ~~from Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations to the transportation center in Vail, Colorado;~~ 14912

BC. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; 14192

BD. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; 14912

FE. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand. 16261

Restrictions:

1. Item A is restricted to service that originates or terminates within the County of Eagle, State of Colorado;

2. ~~Item No. A is restricted against transportation from Stapleton International Airport in Denver,~~

~~Colorado to points in the County of Eagle, State of Colorado.~~

32. Items B, C, ~~D-C~~ and ~~E-D~~ are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year;

43. Item ~~F-E~~ is restricted against the use of four-wheel drive vehicles.

4. Item E is restricted against service that originates or terminates within the County of Eagle, Colorado.

III. Transportation of passengers and their baggage in **call-and-demand limousine service:**

A. ~~and ski equipment, accessories, and supplies, between Stapleton International Airport in Denver, Colorado, and points within a one mile radius thereof until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations, and Denver Union Station and points within a two-mile radius of Denver Union Station, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand; 7321~~

B. between all points located within a 60-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado and between said points, on the one hand, and all points in the State of Colorado, on the other hand; 16261

C. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand; 16261

D. between points in the County of El Paso, State of Colorado, on the one hand, and points in the State of Colorado, on the other hand; 51505

E. between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand; 51505

~~F. between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations, on the other hand; 14912~~

~~C. from Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations to the transportation center in Vail, Colorado; 14912~~

H F. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; 14192

F G. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; 14912

F H. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand. 16261

Restrictions:

1. Item A is restricted: (i) to service that either originates or terminates within the County of Eagle, State of Colorado; (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver;

2. Item B is restricted: (i) to the use of vehicles with a passenger capacity of 14 or less excluding the driver; ~~(ii) against providing any service from Stapleton International Airport in Denver, Colorado to any point in the County of Summit, State of Colorado;~~ ~~(iii) (ii) against any service which originates or terminates in the County of Eagle, State of Colorado;~~ and ~~(iv) (iii) such that any service to points in Eagle, Summit, or Lake Counties, must originate or terminate within a 15 mile radius of the intersection of Mill and Main Streets in Aspen;~~

3. To the extent that Item B and Item C overlap, only one operating right exists.

4. Item D is restricted: (i) to the use of vehicles with a seating capacity of eight or more passengers plus the driver; (ii) against providing service to or from Powder Horn Ski Area in the County of Mesa, State

of Colorado; (iii) against providing service to or from points in the Counties of Adams, Arapahoe, Boulder, Chaffee, Denver, Douglas, Fremont, Jefferson, Gilpin, Pueblo, or Teller, State of Colorado or points located within a five-mile radius of the intersection of 6th and Harrison Streets in Leadville, Colorado, ski areas and ski resorts are specifically excepted from this restriction; and (iv) against providing service from points in the County of Gunnison, State of Colorado;

5. Items ~~F, G, H~~ ~~F~~ and ~~I~~ ~~G~~ are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year;

6. Item ~~J~~ ~~H~~ is restricted against the use of four-wheel drive vehicles.

IV. Transportation, in **sightseeing service**, of passengers:

A. ~~between to all points in the State of Colorado, provided the transportation service originates and terminates in Eagle County; 7321~~

B. ~~between all points located within a fifty mile radius of Vail Colorado; 7321~~

C. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado; 16261

D. ~~between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations, on the other hand; 14912~~

E. ~~from Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations to the transportation center in Vail, Colorado; 14912~~

F. ~~from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; 14192~~

~~G. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; 14912~~

H. D. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand. 16261

Restrictions:

~~1. Item A. is restricted to providing transportation services that both originates and terminates in the County of Eagle, State of Colorado;~~

~~2. Item B is restricted to service that either originates or terminates within the County of Eagle, State of Colorado;~~

31. Item C-B is restricted (i) against the use of four-wheel drive vehicles, and (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado;

42. Items DC, E, F and G are is restricted to providing service only between the dates of November 1 of each year and May 1 of the following year;

53. Item H-D is restricted against the use of four-wheel drive vehicles.

V. Transportation, in **charter service**, of passengers and their baggage,

A. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado; 16261

B. between points in County of El Paso, State of Colorado, on the one hand, and all points in the State of Colorado, on the other hand; 51505

C. between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand; 51505

D. between all points located within a 50-mile radius of Vail, Colorado; 7321

E. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one

hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand; 16261

~~F. between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations, on the other hand; 14912~~

~~G. from Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations to the transportation center in Vail, Colorado; 14912~~

HF. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; 14192

IG. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; 14912

JH. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand. 16261

Restrictions:

1. Item A is restricted (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and (iii) to the use of vehicles with a passenger capacity of 15 or more excluding the driver;

2. Item B is restricted (I) to providing service that both originates and terminates in El Paso County on service provided to or from points in the County of Weld, State of Colorado; (ii) against providing service to or from points in the Counties of Adams, Arapahoe, Boulder, Chaffee, Denver, Douglas, Fremont, Jefferson, Gilpin, Pueblo, or Teller, State of Colorado or points located within a five-mile radius of the intersection of 6th and Harrison Streets in Leadville, Colorado, (ski areas and ski resorts are specifically excepted from this restriction; and (iii) against

providing service from points in the County of Gunnison, State of Colorado;

3. Item D is restricted (i) to providing service that must either originate or terminate within the County of Eagle, State of Colorado; and (ii) against providing service that originates or terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado;

4. Items ~~F~~, ~~G~~, ~~H~~, ~~F~~ and ~~I~~-~~G~~ are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year;

5. Item ~~J~~-~~H~~ is restricted against the use of four-wheel drive vehicles.

VI. Transportation of passengers and their baggage in **special bus service**:

A. between all points within the County of Eagle, State of Colorado, and between said points, on the one hand, and all points located within Leadville, Colorado and a ten-mile radius thereof, on the other hand; 7321

B. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado; 16261

C. between points lying within a one mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand; 16261

~~D. between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations, on the other hand; 14912~~

~~E. from Stapleton International Airport in Denver, Colorado, until commercial air operations cease, and Denver International Airport, upon commencement of commercial air operations to the transportation center in Vail, Colorado; 14912~~

~~FD. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood~~

Springs, Colorado, or to the transportation center in Vail, Colorado; 14192

EE. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; 14912

HE. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand; 16261

Restrictions:

1. Item A is restricted to service that either originates or terminates within the County of Eagle, State of Colorado;
2. Item B is restricted (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; (iii) to the use of vehicles with a passenger capacity of 15 or more excluding the driver;
3. Items D, E, F, D and G, E are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year;
4. Item H, F is restricted against the use of four-wheel drive vehicles.

EXHIBIT 6

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03M-203CP

IN THE MATTER OF THE TRANSFER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC 7321 FROM COLORADO MOUNTAIN EXPRESS, LLC TO RESORT EXPRESS LLC, AND THE SIMULTANEOUS LEASE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY PUC NOS. 7321 AND 13123 FROM RESORT EXPRESS LLC TO COLORADO MOUNTAIN EXPRESS, LLC.

**ORDER RECOGNIZING TRANSFER OF
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY PUC NO. 7321 AND SIMULTANEOUS LEASE
OF CERTIFICATES OF PUBLIC CONVENIENCE AND
NECESSITY PUC NOS. 7321 AND 13123**

Mailed Date: June 4, 2003
Adopted Date: May 16, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the notification of the transfer of Certificate of Public Convenience and Necessity (CPCN) PUC No. 7321 from Colorado Mountain Express, LLC (CME) to Resort Express, LLC (RE), and the simultaneous lease of PUC Nos. 7321 and 13123 by RE to CME. The notification was filed jointly by CME and RE on May 7, 2003.

2. CME and RE formally consummated their merger and related transfer and lease transactions on February 24, 2003 through the completion of a federal review process by the United States Surface Transportation Board (USSTB) pursuant to 49 U.S.C. § 14303. Because the CPCNs at issue here were issued by the Commission, this notification and request for acknowledgment is required. Based on the material presented, the Commission will

acknowledge the merger and subsequent CPCN transfer and lease subject to the conditions set forth in this order.

3. Prior to the USSTB approved merger, CME was a wholly owned subsidiary of East West Resorts Transportation, LLC, a Delaware limited liability company (EWRT I). RE was, a wholly owned subsidiary of East West Resorts Transportation II, LLC, also a Delaware limited liability company (EWRT II).

4. EWRT I, EWRT II, CME, and RE jointly filed an application with the USSTB to merge EWRT I and EWRT II, with EWRT I as the surviving entity. This merger eliminated EWRT II as one of the holding companies that previously held CME and RE as wholly owned carrier subsidiaries. According to the terms of the merger, CME and RE comprise two separate entities wholly owned as subsidiaries of EWRT. Incident to the merger, the parties sought the transfer of the operating authorities of CME to RE followed by the lease of all the Commission-granted operating authorities of RE (consisting of PUC Nos. 7321 and 13123) by CME.

5. According to the parties, by virtue of this series of transactions, CME will have become the sole operating entity actively providing carrier service, although RE will have remained a carrier subject to the jurisdiction of the Commission as a result of its status as owner and lessor of the two CPCNs identified previously.

6. The parties lastly sought the following name changes: (1) Colorado Mountain Express, LLC to East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express; and (2) Resort Express, LLC to Transportation Management Systems, LLC. The parties represent that they will file notification of the entity name changes pursuant to our Rule 4 *Code of*

Colorado Regulations 723-1-52 "substantially contemporaneously with the filing of this notification."

7. The Commission construes the request for acknowledgment as an abbreviated application for approval of a CPCN transfer. The primary purpose for considering the parties' request is to ensure that the entity operating the CPCNs and the name of the insured entity are accurately reflected in the Commission's records.

8. The Commission finds that CME must file a certificate of insurance in its name. This standard requirement of all jurisdictional transportation utilities, as well as the other standard requirements described in the ordering paragraphs below, must be fulfilled in order for CME to conduct lawful operations under the CPCNs leased from RE.

II. ORDER

A. The Commission Orders That:

1. The merger of East West Resorts Transportation, LLC, a Delaware Limited Liability Company, into East West Resorts Transportation II, LLC, a Delaware Limited Liability Company, with East West Resorts Transportation, LLC as the surviving entity, and Colorado Mountain Express, LLC and Resort Express, LLC as wholly owned subsidiaries of the surviving entity is hereby acknowledged.

2. The subsequent name changes of Colorado Mountain Express, LLC to East West Resort Transportation, LLC, doing business as Colorado Mountain Express and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express; and Resort Express, LLC to Transportation Management Systems, LLC is hereby acknowledged.

3. The transfer of Certificate of Public Convenience and Necessity PUC No. 7321 from Colorado Mountain Express, LLC to Resort Express, LLC and the simultaneous lease of Certificates of Public Convenience and Necessity PUC Nos. 7321 and 13123 by Resort Express, LLC to Colorado Mountain Express, LLC is hereby acknowledged.

4. Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, shall be granted the authority to provide transportation services as described in Certificate of Public Convenience and Necessity PUC Nos. 7321 and 13123.

5. The right of Colorado Mountain Express to operate under this Decision shall depend upon its compliance with all present and future laws and Commission rules and regulations, and the prior filing by Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, and Resort Express, LLC, now known as Transportation Management Systems, LLC of any delinquent reports, if any, covering operations under their respective certificates up to the completion of all filing requirements set forth in this Decision.

6. Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express shall cause certificates of insurance to be filed with the Commission as required by Commission rules.

7. Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express shall pay any vehicle identification fees.

8. The tariffs or rates, rules, and regulations of Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, and Resort Express, LLC, now known as Transportation Management Systems, LLC pertaining to Certificate of Public Convenience and Necessity PUC Nos. 7321 and 13123 shall, upon adoption notice, become and remain those of Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, until changed in accordance with controlling law and applicable Commission rules and regulations.

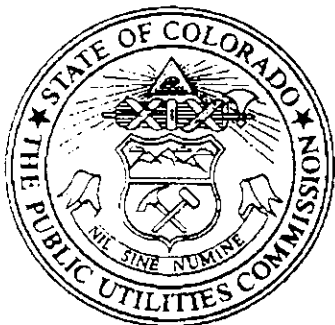
9. The joint applicants shall comply with the requirements of the preceding paragraphs within 60 days of the effective date of this Decision. On good cause shown, the Commission may grant additional time for compliance, if the request is filed within 60 days of the effective date of this Decision.

10. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

11. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 16, 2003.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

EXHIBIT 7

Colorado PUC No. 2
Cancels Colorado PUC No. 5
Cancels Colorado PUC No. 11
Cancels Colorado PUC No. 12
Cancels Colorado PUC No. 17

East West Resort Transportation, LLC

d/b/a

Colorado Mountain Express,

and/or

CME Premier,

and/or

Premier VIP Transportation

and/or

Resort Express, a/k/a Resort Express, LLC

Passenger Tariff

naming

Rules, Regulations and Rates

for the

Transportation of passenger and their baggage
In Scheduled and Call-and-Demand Limousine Service
as outlined in Sections 1, 2 and 3

RECEIVED
NOV 20 2003
PUBLIC UTILITIES COMMISSION
STATE OF COLORADO

Issued: November 20, 2003

Effective: January 2, 2004

Issued by

Jay Ufer, President
P.O. Box 580
Vail, CO 81658-0580

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Item 100 Scope of Operation – Certificate No. 7321

- I. Transportation of passengers and their baggage in scheduled service.
 - A. between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
 - B. between Denver, Colorado, and Rifle, Colorado, via I-70 and U.S. Highway No. 6 serving all intermediate points; and in addition serving all off-route points within one mile of said routes located west of a line drawn north and south through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado;
 - C. between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek Road serving all intermediate points, all off-route points located within one mile of said route and serving the off-route points of Snowmass Village and Snowmass Ski Resort;
 - D. between Frisco, Colorado and Blue River, Colorado via Colorado State Highway No. 9 serving all intermediate points and all off-route points located within one mile of said route and service the off-route point of Keystone, CO;
 - E. (Suspended)

Restrictions:

- 1. Item A is restricted: (i) to service that originates or terminates within the County of Eagle, State of Colorado; and (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver.
- 2. Item B is restricted against providing service between Denver Union Station and Points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand.
- 3. Authority is expressly granted to tack Items B, C, and D with each other to provide a through transportation service.
- 4. (Suspended)

- II. (Abandoned)
- III. Transportation of passengers and their baggage in call-and-demand limousine service.
 - A. between Denver International Airport and Denver Union station and points within a two-mile radius of Denver Union Station, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
 - B. (Suspended)
 - C. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit and Clear Creek, on the other hand;
 - D. (Abandoned)
 - E. (Suspended)
 - F. (Suspended)
 - G. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
 - H. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions:

- 1. Item A is restricted: (i) to service that either originates or terminates within the County of Eagle, State of Colorado; (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver.
 - 2. (Suspended)
 - 3. (Suspended)
 - 4. (Abandoned)
 - 5. (Abandoned)
 - 6. Item H is restricted to the use of four-wheel drive vehicles.
- IV. (Abandoned)
- V. Transportation, in charter service, of passengers and their baggage.
 - A. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado
 - B. (Abandoned)

- C. between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;
- D. between all points located within a 50-mile radius of Vail, Colorado.
- E. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- F. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
- G. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado.
- H. Between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions:

- 1. Item A is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver.
- 2. (Abandoned)
- 3. Item D is restricted: (i) to providing service that must either originate or terminate within the County of Eagle, State of Colorado; and (ii) against providing service that originates or terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado.
- 4. Items F and G are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
- 5. Item H is restricted against the use of four-wheel drive vehicles.

VI. Transportation of passengers and their baggage in special bus service:

- A. between all points within the County of Eagle, State of Colorado, and between said points, on the one hand, and all points located within Leadville, Colorado and a ten-mile radius thereof, on the other hand.

- B. Between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;
- C. Between all points located within a 50-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- D. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, or to the transportation center in Vail, Colorado.
- E. From Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
- F. Between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the other hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions:

- 1. Item A is restricted to service that either originates or terminates within the County of Eagle, State of Colorado.
- 2. Item B is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado, (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver.
- 3. Items D & E are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
- 4. Item F is restricted against the use of four-wheel drive vehicles.

Item 105 Scope of Operations – Certificate No. 13123

I. Transportation of passengers and their baggage,

- A. In Call-and-Demand and in scheduled limousine service, between all points in the County of Summit, State of Colorado,
- B. In Taxi service, between all points in the County of Summit, State of Colorado, and between said points on the one hand, and all points in the State of Colorado, on the other hand,
- C. Packages and parcels, between all points in the County of Summit, State of Colorado.

Restrictions:

- 1. Item (1) of this Certificate is restricted to the use of vehicles having a capacity of 15-passengers or less, including the driver.

Item 110 Animals or Birds

Animals or birds will not be carried, except for properly muzzled "seeing eye" guide dogs.

Item 120 Application and Collection of Charges

Charges shown herein apply for trips over improved roads only, or roads over which the vehicles can be operated at the time of the trip with safety and without undue wear. All charges are payable in advance, unless credit is established with carrier. Charges may be assessed against and/or collected from the person or organization selling the ticket, or prorated and collected as fares from individuals.

Item 130 Baggage

Each passenger shall be allowed two suitcases and one carry-on. In addition, each passenger shall be allowed one sports equipment bag at no additional. Each additional piece of baggage or sports equipment will be charged at a rate of \$15.00 per piece. Bicycles will be carried only by previous arrangement with the carrier and will be charged at the per person rate.

Item 140 Discounts

(a) Discounts, if applicable, will be determined at time reservation is made.

(b) The carrier may offer discounts of up to one-hundred (100%) of the applicable tariff rate based on customer service related events and/or advertising.

Item 145 Fares

A. Standby Fare: A 'standby' passenger is one who has no confirmed reservation. Standbys shall be picked up after all confirmed passengers at the last point of boarding before said departure. Standbys must call the carrier for the times of departures and pick-up point.

Item 150 Impractical Operations

The carrier reserves the right to refuse to make any trip when weather or highway conditions render operation of motor vehicles, in the opinion of the carrier or its employees, dangerous or impractical. The carrier shall not be liable for delays caused by the Act of God such as snow, storms, blizzards, bad road conditions beyond its control, nor can the carrier guarantee to arrive at or depart from any point at a specified time. Every effort shall be made by the carrier to maintain schedules; however, this is not guaranteed.

Item 155 Liability

The carrier will not be liable for delays caused by Acts of God, public enemies, authority of law, quarantine, perils of navigation, riots, strikes, the hazards of dangers incident to a state of war, accidents, breakdowns, bad conditions of the road, snowstorms and other conditions beyond its control. The carrier will endeavor to maintain the schedule submitted by its agent or employee, but same is not guaranteed.

If any of the above conditions make it, in the opinion of the carrier, inadvisable to operate either from the origin or any point enroute, the carrier shall not be liable for failure to furnish service to the extent that such conditions prevent.

The carrier shall be responsible for lost or stolen articles only to the extent of the current market value of the article or articles at time of loss, subject to a maximum of \$500.00, and then only when the article, or articles, have been properly checked in or on the vehicle by the driver.

All claims must be filed with the carrier in writing within sixty (60) days from the time of loss. Address claims to EWRT, LLC, P.O. Box 580, Vail, CO 81658-0580

Item 160 Mileage

Where rates are based on mileage, the mileage shall be determined by the use of the odometer of the vehicle affecting the service.

Item 165 Missed Luggage

Luggage or other baggage items not transported with passenger, due to fault of person or entities other than carrier, shall be charged at the scheduled service rates.

Item 170 Objectionable Persons

The carrier reserves the right to refuse to transport any person who is under the influence of intoxicating liquor or drugs, or who is incapable of taking care of himself, or who shows conduct which is such, or is likely to be such, as to make him or her objectionable to other such passengers.

If a passenger has to be refused service for violating this rule, his or her fare will not be returned.

This rule does not apply to persons who are ill and accompanied by an attendant or nurse.

Item 175 Payment for Service

The carrier will accept payment by credit card, cash or travelers checks. In the case of a 15-day or more pre-payment, said carrier shall accept a personal check.

Item 180 Refund Policy

If the reservation is canceled more than 24-hours prior to travel, carrier will refund all monies received. If reservation is canceled within 24-hours of travel time, no refund will be given to the passenger.

Item 185 Reservations and Cancellations

1. Reservations: Passengers may make reservations. Passengers without reservations will be transported on a space available basis.
2. Cancellations: When a reservation is canceled, in whole or in part, by the reserving party, the carrier will assess charges depending upon notification prior to or after "dispatch departure time" as provided below:
 - A. "Dispatch departure time" as used herein, is defined as the time a reservation would be required to leave the dispatch point in order to arrive at the place of origin at the time stipulated on the service order. Such "dispatch departure time" shall be computed by allowing one (1) hour for each forty-five (45) miles, or fraction thereof, of the one-way dispatch point to the place of origin.
 - B. If a reservation is canceled within 24 or more hours prior to the "dispatch departure time" from available equipment point, no refund will be given to the passenger.
 - C. If a reservation is canceled 24 or more hours prior to the "dispatch departure time" from available equipment point, no cancellation charge will be assessed.

Section 2

Rates

<u>Item 100</u>	<u>Rates & Fares for Scheduled Service</u>	
100.1	Fares for passengers shall be at the following rates:	O/W
100.2	DIA and Aspen (Brush Creek/32 Intercept Lot)	\$ 79.00
100.3	DIA and Aspen/Snowmass	\$ 103.00
100.4	DIA and Breckenridge	\$ 53.00
100.5	DIA and Copper Mountain	\$ 53.00
100.6	DIA and Glenwood Springs	\$ 69.00
100.6	DIA and Keystone	\$ 53.00
100.7	DIA and Summit County (Frisco Trans. Center) (On-line Res)	\$ 29.00
100.8	DIA and Summit County (Frisco Trans. Center) (Telephone Res)	\$ 35.00
100.9	DIA and Vail (Vail Trans. Center) (On-line Res)	\$ 39.00
100.10	DIA and Vail (Vail Trans. Center) (Telephone Res)	\$ 45.00
100.9	DIA and Vail Valley & Beaver Creek	\$ 63.00
100.9	Eagle Airport and Aspen	\$ 53.00
100.10	Eagle Airport and Vail Valley/Beaver Creek	\$ 44.00
100.11	Glenwood Springs and Aspen/Snowmass	\$ 45.00
100.12	Glenwood Springs and Vail Valley/Beaver Creek	\$ 45.00
100.13	Vail Valley/Beaver Creek and Aspen/Snowmass	\$ 63.00

Item 200	Rates and Fares for Call-and-Demand Service	
200.1	Fares for passengers shall be at the following rates:	O/W
200.2	DIA and all points in Eagle County	\$ 63.00
200.3	DIA and all points in Clear Creek County	\$ 26.25 ⁽¹⁾
200.4	DIA and all points in Eagle County	\$ 63.00
200.5	DIA and all points in Garfield County	\$ 83.00
200.6	DIA and all points in Pitkin County	\$ 103.00
200.7	DIA and all points in Summit County	\$ 53.00
200.8	Downtown Denver and all points in Eagle County	\$ 31.25 ⁽¹⁾
200.9	El Paso County and all points in Colorado	\$ (1) (2)
	(1) Rate for service is subject to a four (4) passenger minimum.	
	(2) 4 Passengers - \$75.00 per passenger, first 80 miles, plus \$0.9375 per mile, per passenger, each mile over 80.	
	5 Passengers - \$560.00 per passenger, first 80 miles, plus \$0.7500 per mile, per passenger, each mile over 80.	
	6 Passengers - \$50.00 per passenger, first 80 miles, plus \$0.6250 per mile, per passenger, each mile over 80.	
	7 Passengers - \$42.85 per passenger, first 80 miles, plus \$0.5357 per mile, per passenger, each mile over 80.	
	8 Passengers - \$37.50 per passenger, first 80 miles, plus \$0.4688 per mile, per passenger, each mile over 80.	
	9 Passengers - \$33.33 per passenger, first 80 miles, plus \$0.4167 per mile, per passenger, each mile over 80.	
	10 Passengers - \$30.00 per passenger, first 80 miles, plus \$0.3750 per mile, per passenger, each mile over 80.	
200.10	Pitkin County Airport and Walker Field, Grand Junction	\$ (1) (2)
	(1) Rate for service is subject to a four (4) passenger minimum.	
	(2) 4 Passengers - \$75.00 per passenger, first 80 miles, plus \$0.9375 per mile, per passenger, each mile over 80.	
	5 Passengers - \$560.00 per passenger, first 80 miles, plus \$0.7500 per mile, per passenger, each mile over 80.	
	6 Passengers - \$50.00 per passenger, first 80 miles, plus \$0.6250 per mile, per passenger, each mile over 80.	
	7 Passengers - \$42.85 per passenger, first 80 miles, plus \$0.5357 per mile, per passenger, each mile over 80.	
	8 Passengers - \$37.50 per passenger, first 80 miles, plus \$0.4688 per mile, per passenger, each mile over 80.	
	9 Passengers - \$33.33 per passenger, first 80 miles, plus \$0.4167 per mile, per passenger, each mile over 80.	
	10 Passengers - \$30.00 per passenger, first 80 miles,	

200.11 Grand Junction and all ski areas west of the Continental Divide. \$ (1) (2)

(1) Rate for service is subject to a four (4) passenger minimum.

(2) 4 Passengers - \$93.75 per passenger, first 50 miles
plus \$0.6667 per passenger, per mile, each mile over 50.

5 Passengers - \$70.00 per passenger, first 50 miles
plus \$0.5333 per passenger, per mile, each mile over 50.

6 Passengers - \$58.33 per passenger, first 50 miles
plus \$0.4444 per passenger, per mile, each mile over 50.

7 Passengers - \$50.00 per passenger, first 50 miles
plus \$0.3810 per passenger, per mile, each mile over 50.

8 Passengers - \$43.75 per passenger, first 50 miles
plus \$0.3333 per passenger, per mile, each mile over 50.

9 Passengers - \$38.88 per passenger, first 50 miles
plus \$0.2963 per passenger, per mile, each mile over 50.

10 Passengers - \$35.00 per passenger, first 50 miles
plus \$0.2667 per passenger, per mile, each mile over 50.

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Section 3

Rates

Item 300 Rates and Fares for Call-and-Demand Service and Scheduled Service

- 300.1 Fares for passengers shall be at the following rates: O/W
- 300.2 Between all points in the County of Summit \$ (1) (2)

(1) Rate for service is subject to a four (4) passenger minimum.

(2) 4 Passengers - \$50.00 per passenger, first 25 miles
plus \$0.5000 per passenger, per mile, each mile over 25

5 Passengers - \$40.00 per passenger, first 25 miles
plus \$0.4000 per passenger, per mile, each mile over 25

6 Passengers - \$33.33 per passenger, first 25 miles
plus \$0.3333 per passenger, per mile, each mile over 25

7 Passengers - \$28.57 per passenger, first 25 miles
plus \$0.2857 per passenger, per mile, each mile over 25

8 Passengers - \$25.00 per passenger, first 25 miles
plus \$0.2500 per passenger, per mile, each mile over 25

9 Passengers - \$22.22 per passenger, first 25 miles
plus \$0.2222 per passenger, per mile, each mile over 25

10 Passengers - \$20.00 per passenger, first 25 miles
plus \$0.2000 per passenger, per mile, each mile over 25

Item 400 Commissions

- 400.1 The carrier may offer commissions to travel agents and other travel
arrangers and promoters of up to twenty-percent (20%) of the
applicable tariff rate.
- 400.2 The carrier may offer these commissions by invoice, discount coupons,
or other promotional devices.

Item 500 Discounts

- 500.1 The carrier may offer discounts of up to one-hundred percent (100%)
of the applicable tariff rate based on customer service related events
and/or advertising.

Section 4

EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS

400.1 Abbreviations

Min.	Minimum
No.	Number
EWRT, LLC	East West Resort Transportation, LLC
CME	Colorado Mountain Express
RE	Resort Express
RE, LLC	Resort Express, LLC

400.2 Reference Marks

(+)	Additions
(A)	Denotes Increase
(B)	Denotes both Reductions & Increases
(C)	Denotes changes in wording which result in neither increases nor reductions in charges, or changes in revision number only without changes in tariff matter on body of page
(D)	Denotes reduction

End of Tariff

EXHIBIT 8

COLORADO PUBLIC UTILITIES COMMISSION

COMMISSIONERS' WEEKLY MEETING

HELD ON DECEMBER 30, 2003

Commissioners Present:

Chairman Gregory E. Sopkin
Commissioner Polly Page
Commissioner Jim Dyer participated by telephone

Members of the Public present:

Five

The meeting was called to order at the Office of the Commission on Tuesday, December 30, 2003 at 9:00 a.m.

TRANSPORTATION MATTERS

A. Public Comment/Commissioners' Comment

None.

B. Emergency Matters

1. **Docket No. 03R-401HHG.** In The Matter Of Proposed Rules Concerning The Regulation Of Carriers Of Household Goods, 4 CCR 723-35.

STATUS – Exceptions to Recommended Decision No. R03-1434 due 1-8-04. No transcript. 180 days expire 5-5-04.

Discussed whether the Commission, on its own motion, should enter an order staying Recommended Decision No. R03-1434, for further consideration. The Commission declined to enter an order staying Recommended Decision No. R03-1434, by minute entry.

D. Matters Decided or Awaiting Written Decision

None.

E. New Applications, Formal Complaints and/or Miscellaneous Dockets Filed - for Commissioners' Information

None.

F. Non-Contested Applications to be Deemed Complete and/or Approved

None.

G. Consent Items

None.

H. Discussion Items

2. ~~Docket No. 03A-515BP-TA. Douglas Eby dba High Country Transportation Service of Colorado.~~

~~Entry of Appearance and Notice of Intervention and Initial List of Witnesses and Exhibits filed by Vail Valley Transportation, Inc. and Vail Valley Taxi, Inc. on 12-22-03.~~

~~Discussed. The Commission entered an order granting the application for temporary authority. Intervention appeared on the agenda for information only.~~

3. **Colorado Mountain Express, LLC.** Passenger Tariff. Revised tariff including increased fares for the transportation of passengers in scheduled, call-and-demand limousine, sightseeing, and taxi service between points in the Counties of Denver, Eagle, El Paso, Garfield, Mesa, Park, Pitkin and Summit. Proposed effective date 1-2-04.
This item was discussed at the Weekly Meeting on 12-10-03 (an amendment was filed postponing the proposed effective date to 1-2-04). The Commission took no action and allowed this tariff to become effective by operation of law.

GENERAL PUC MATTERS

None

ENERGY AND WATER MATTERS

A. Public Comment

None.

B. Emergency Matters

None.

C. General Matters

None.

D. Matters Decided or Awaiting Written Decision

None

EXHIBIT 9

EWRT, LLC
P.O. Box 580
Vail, CO 81658-0580

December 31, 2003

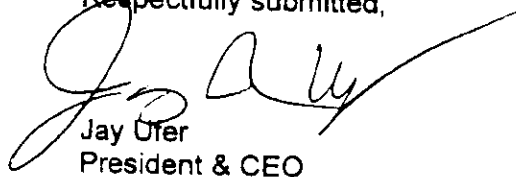
Mr. Gary Gramlick
Public Utilities Commission
OL1, Room 101
1580 Logan Street
Denver, CO 80203

Re: New Schedules

Dear Mr. Gramlick:

Enclosed are new schedules for EWRT's intrastate operation. It is requested that the new intrastate schedules be allowed to go into effect as soon as possible, and on less than statutory notice, to coincide with our interstate schedules which are presently in effect.

Respectfully submitted,



Jay Ufer
President & CEO

JU/jdr

RECEIVED

DEC 31 2003

PUBLIC UTILITIES COMMISSION
STATE OF COLORADO

Time Schedule No. 1
Cancels Time Schedule No. 1
Cancels Time Schedule No. 49

Winter Time Schedule 2003 - 2004

East West Resort Transportation, LLC

d/b/a

Colorado Mountain Express

and/or

CME Premier

and/or

Premier VIP Transportation

and/or

Resort Express

a/k/a

Resort Express, LLC

For the transportation of passengers and their
baggage, in scheduled service, between
points listed in Certificate No.'s 7321 & 13123

Issued by:

Jay Ufer
President & CEO
EWRT, LLC
P.O. Box 580
Vail, CO 81658-0580

RECEIVED

DEC 31 2003

**PUBLIC UTILITIES COMMISSION
STATE OF COLORADO**

Effective: _____ -

thru

April 20, 2004

Issued: LSN Decision No. _____

East West Resort Transportation, LLC
d/b/a Colorado Mountain Express, and/or CME Premier,
and/or Premier VIP Transportation, and/or Resort Express,
a/k/a Resort Express, LLC

Schedules

Lv: Glenwood Springs	Ar: D.I.A.⁽¹⁾	Lv: D.I.A.	Ar: Glenwood Springs
0515 ⁽²⁾	0930	1000	1400
0715	1130	1200	1600
1015	1430	1500	1900
1315	1730	1800	2200
1715	2130	2200	0200

Lv: Aspen	Ar: Vail	Ar: D.I.A.
0430 ⁽²⁾	0700	0930
0630	0900	1130
0930	1200	1430
1230	1500	1730
1630 ⁽²⁾	1900	2130

Lv: D.I.A.	Ar: Vail	Ar: Aspen
1000 ⁽²⁾	1245	1515
1200	1445	1715
1500	1745	2015
1800	2045	2315
2200 ⁽²⁾	N/A	0215

Note ⁽¹⁾ **Denver International Airport**

Note ⁽²⁾ **Schedule operates Saturday & Sunday only.**

East West Resort Transportation, LLC
d/b/a Colorado Mountain Express, and/or CME Premier,
and/or Premier VIP Transportation, and/or Resort Express,
a/k/a Resort Express, LLC

Schedules

Lv: Beaver Creek

0415
0515
0615
0715
0815
0915
1015
1115
1215
1315
1415
1515
1615
1715
1815

Ar: Vail

0500
0600
0700
0800
0900
1000
1100
1200
1300
1400
1500
1600
1700
1800
1900

Ar: D.I.A.⁽¹⁾

0730
0830
0930
1030
1130
1230
1330
1430
1530
1630
1730
1830
1930
2030
2130

Lv: D.I.A.

0800
0900
1000
1100
1200
1300
1400
1500
1600
1700
1800
1900
2000
2100
2200

Ar: Vail

1030
1130
1230
1330
1430
1530
1630
1730
1830
1930
2030
2130
2230
2330
0030

Ar: Beaver Creek

1115
1215
1315
1415
1515
1615
1715
1815
1915
2015
2115
2215
2315
0015
0115

Note ⁽¹⁾ Denver International Airport

Winter Schedule
Effective: 01/02/04 thru 04/20/04

East West Resort Transportation, LLC
d/b/a Colorado Mountain Express, and/or CME Premier,
and/or Premier VIP Transportation, and/or Resort Express,
a/k/a Resort Express, LLC

Schedules

Lv: Summit County ⁽⁴⁾

Ar: D.U.S. ⁽²⁾

Ar: D.I.A. ⁽¹⁾

0530	F ⁽³⁾	0715
0630	F	0815
0730	F	0915
0830	F	1015
0930	F	1115
1030	F	1215
1130	F	1315
1230	F	1415
1330	F	1515
1430	F	1615
1530	F	1715
1630	F	1815
1730	F	1915
1830	F	2015
1930	F	2115

Lv: D.I.A.

Ar: D.U.S.

Ar: Summit County

0830	F	1015
0930	F	1115
1030	F	1215
1130	F	1315
1230	F	1415
1330	F	1515
1430	F	1615
1530	F	1715
1630	F	1815
1730	F	1915
1830	F	2015
1930	F	2115
2030	F	2215
2130	F	2315
2230	F	0015

Note ⁽¹⁾ Denver International Airport
Note ⁽²⁾ Denver Union Station
Note ⁽³⁾ Flag Stop
Note ⁽⁴⁾ I-70 Exit 205

East West Resort Transportation, LLC
d/b/a Colorado Mountain Express, and/or CME Premier,
and/or Premier VIP Transportation, and/or Resort Express,
a/k/a Resort Express, LLC

Schedules

Lv: Blue River⁽²⁾ Lv: Breckenridge⁽³⁾ Lv: Frisco⁽⁴⁾ Ar: Summit County⁽⁵⁾

F ⁽¹⁾	F	F	0525
F	F	F	0625
F	F	F	0725
F	F	F	0825
F	F	F	0925
F	F	F	1025
F	F	F	1125
F	F	F	1225
F	F	F	1325
F	F	F	1425
F	F	F	1525
F	F	F	1625
F	F	F	1725
F	F	F	1825
F	F	F	1925

Lv: Summit County Lv: Frisco Lv: Breckenridge Ar: Blue River

1020	F	F	F
1120	F	F	F
1220	F	F	F
1320	F	F	F
1420	F	F	F
1520	F	F	F
1620	F	F	F
1720	F	F	F
1820	F	F	F
1920	F	F	F
2020	F	F	F
2120	F	F	F
2220	F	F	F
2320	F	F	F
0020	F	F	F

- Note ⁽¹⁾ Flag Stop
Note ⁽²⁾ Highway 9 & Blue River Road, Blue River
Note ⁽³⁾ City Market, Breckenridge
Note ⁽⁴⁾ Frisco Transfer Center, Frisco
Note ⁽⁵⁾ Exit 205, Silverthorne

East West Resort Transportation, LLC
d/b/a Colorado Mountain Express, and/or CME Premier,
and/or Premier VIP Transportation, and/or Resort Express,
a/k/a Resort Express, LLC

Schedules

Lv: Keystone⁽²⁾

Ar: Summit County⁽³⁾

F⁽¹⁾	0525
F	0625
F	0725
F	0825
F	0925
F	1025
F	1125
F	1225
F	1325
F	1425
F	1525
F	1625
F	1725
F	1825
F	1925

Lv: Summit County

Ar: Keystone

1020	F
1120	F
1220	F
1320	F
1420	F
1520	F
1620	F
1720	F
1820	F
1920	F
2020	F
2120	F
2220	F
2320	F
0020	F

Note ⁽¹⁾ Flag Stop
Note ⁽²⁾ Keystone Resort, Condominium Registration, Keystone
Note ⁽³⁾ Exit 205, Silverthorne

EWRT, LLC
P.O. Box 580
Vail, CO 81658-0580

December 31, 2003

New Intrastate Schedules:

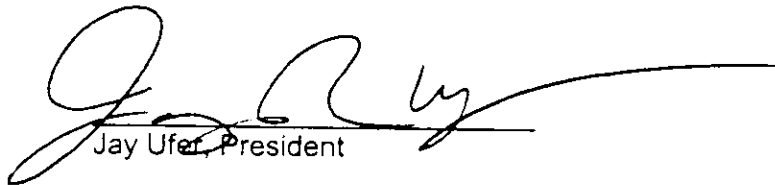
Regarding points in Summit County, i.e., Blue River, Breckenridge, Frisco and Keystone, these points have been shown as "flag" stops on both the pickup and drop off. We presently have call-and-demand limousine authority, and scheduled service authority, between the points referenced above and Denver International Airport. Major landmarks in each of these locations have been identified in the footnotes. Routes serving these locations connect with the schedules operating between Summit County and Denver International Airport.

East West Resort Transportation, LLC

P.O. Box 580
Vail, CO 81658-0580

Affidavit

I, Jay Ufer, President of East West Resort Transportation, LLC, d/b/a Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, a/k/a Resort Express, LLC, ("EWRT, LLC") hereby certify that the Notice of Schedule Changes, and the proposed schedules, filed with the Colorado Public Utilities Commission December 31, 2003, have been posted in all equipment used in scheduled service as of 8:00 a.m. January 9, 2004.



Jay Ufer, President

JU/jdr

East West Resort Transportation, LLC
d/b/a Colorado Mountain Express and/or CME Premier
and/or Premier VIP Transportation and/or Resort Express,
a/k/a Resort Express, LLC

Schedules			
Le: Glenwood Springs	Ar: D.I.A. ¹⁸	Le: D.I.A.	Ar: Glenwood Springs
2515 ¹⁸	2830	1000	1400
2715	1130	1200	1600
1915	1430	1500	1900
1715	1730	1800	2200
1715	2130	2200	2200
Le: Aspen	Ar: Vail	Ar: D.I.A.	
2430 ¹⁸	2730	2830	
2630	2930	1130	
2930	1200	1430	
1230	1500	1730	
1630 ¹⁸	1900	2130	
Le: D.I.A.	Ar: Vail	Ar: Aspen	
1000 ¹⁸	1245	1515	
1200	1445	1715	
1500	1745	2015	
1800	2045	2315	
2200 ¹⁸	N/A	2515	
Note ¹⁸ Denver International Airport			
Note ¹⁸ Schedule operates Saturday & Sunday only.			
Le: Beaver Creek	Ar: Vail	Ar: D.I.A. ¹⁸	
2415	2500	0730	
2515	2600	0830	
2615	2700	0930	
0715	0800	1030	
0815	0900	1130	
0915	1000	1230	
1015	1100	1330	
1115	1200	1430	
1215	1300	1530	
1315	1400	1630	
1415	1500	1730	
1515	1600	1830	
1615	1700	1930	
1715	1800	2030	
1815	1900	2130	
Le: D.I.A.	Ar: Vail	Ar: Beaver Creek	
0800	0830	1115	
0900	1130	1215	
1000	1230	1315	
1100	1330	1415	
1200	1430	1515	
1300	1530	1615	
1400	1630	1715	
1500	1730	1815	
1600	1830	1915	
1700	1930	2015	
1800	2030	2115	
1900	2130	2215	
2000	2230	2315	
2100	2330	0015	
2200	0030	0115	
Note ¹⁸ Denver International Airport			
Le: Summit County ¹⁸	Ar: D.U.S. ¹⁸	Ar: D.I.A. ¹⁸	
0530	F	0715	
0630	F	0815	
0730	F	0915	
0830	F	1015	
0930	F	1115	
1030	F	1215	
1130	F	1315	
1230	F	1415	
1330	F	1515	
1430	F	1615	
1530	F	1715	
1630	F	1815	
1730	F	1915	
1830	F	2015	
1930	F	2115	
Le: D.I.A.	Ar: D.U.S.	Ar: Summit County	
0830	F	1015	
0930	F	1115	
1030	F	1215	
1130	F	1315	
1230	F	1415	
1330	F	1515	
1430	F	1615	
1530	F	1715	
1630	F	1815	
1730	F	1915	
1830	F	2015	
1930	F	2115	
2030	F	2215	
2130	F	2315	
2230	F	0015	
Note ¹⁸ Denver International Airport			
Note ¹⁸ Denver Union Station			
Note ¹⁸ Flag Stop			
Note ¹⁸ I-70 Exit 205			

Le: Blue River ¹⁸	Le: Breckenridge ¹⁸	Le: Frisco ¹⁸	Ar: Summit County ¹⁸
1030	F	F	0525
F	F	F	0625
F	F	F	0725
F	F	F	0825
F	F	F	0925
F	F	F	1025
F	F	F	1125
F	F	F	1225
F	F	F	1325
F	F	F	1425
F	F	F	1525
F	F	F	1625
F	F	F	1725
F	F	F	1825
F	F	F	1925
Le: Summit County	Le: Frisco	Le: Breckenridge	Ar: Blue River
1030	F	F	F
1120	F	F	F
1220	F	F	F
1320	F	F	F
1420	F	F	F
1520	F	F	F
1620	F	F	F
1720	F	F	F
1820	F	F	F
1920	F	F	F
2020	F	F	F
2120	F	F	F
2220	F	F	F
2320	F	F	F
0020	F	F	F
Note ¹⁸ Flag Stop			
Note ¹⁸ Highway 8 & Blue River Road, Blue River			
Note ¹⁸ City Market, Breckenridge			
Note ¹⁸ Frisco Transfer Center, Frisco			
Note ¹⁸ Exit 205, Silverthorne			
Le: Keystone ¹⁸	Ar: Summit County ¹⁸		
1030	F		0425
F	F		0525
F	F		0625
F	F		0725
F	F		0825
F	F		0925
F	F		1025
F	F		1125
F	F		1225
F	F		1325
F	F		1425
F	F		1525
F	F		1625
F	F		1725
F	F		1825
F	F		1925
Le: Summit County	Ar: Keystone		
1020	F		
1120	F		
1220	F		
1320	F		
1420	F		
1520	F		
1620	F		
1720	F		
1820	F		
1920	F		
2020	F		
2120	F		
2220	F		
2320	F		
0020	F		
Note ¹⁸ Flag Stop			
Note ¹⁸ Keystone Resort, Condominium Registration, Keystone			
Note ¹⁸ Exit 205, Silverthorne			

NOTICE OF SCHEDULE CHANGE

East West Resort Transportation, LLC, d/b/a Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, a/k/a Resort Express, LLC, ("EWRT, LLC"), has filed with the Public Utilities Commission to change schedules on less than statutory notice.

Objections to schedule changes must be made in writing, and filed with the Public Utilities Commission, Office Level 2, 1580 Logan Street, Denver, CO 80203. Requests for notice of hearing, if the Commission sets the matter for hearing, must be filed in writing. Requests to intervene as a party must comply with Commission rules. If a hearing is held, any member of the public may attend and make a statement, whether or not that person has filed an objection or intervention.

East West Resort Transportation, LLC

Dated: January 6, 2004

Revised: January 9, 2004

EXHIBIT 10

Decision No. C04-0049

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04L-022CP

RE: IN THE MATTER OF THE APPLICATION OF EAST WEST RESORT, LLC, DOING BUSINESS AS COLORADO MOUNTAIN EXPRESS TO PUBLISH TIME SCHEDULE NUMBER 1, TO BECOME EFFECTIVE ON LESS-THAN-STATUTORY NOTICE.

**COMMISSION ORDER GRANTING SCHEDULE
CHANGES ON LESS-THAN-STATUTORY NOTICE**

Mailed Date: January 16, 2004

Adopted Date: January 14, 2004

I. **BY THE COMMISSION:**

A. **Statement**

1. On December 31, 2003, East West Resort, LLC. doing business as Colorado Mountain Express ("Colorado Mountain Express"), filed an application for authority to publish Time Schedule No. 1 to become effective on less-than-statutory notice. Colorado Mountain Express provides scheduled service between the mountain communities of Vail, Aspen, Silverthorne, Eagle, and Denver International Airport.

2. Colorado Mountain Express proposes to cancel all extant intrastate schedules and replace them with one consolidated Schedule No. 1 that conforms to their interstate operations. Colorado Mountain Express has posted the change in office, pick-up points and vehicles continuously since January 9, 2004.

3. In support of the application, Colorado Mountain Express states that they are responding to public needs to modify the schedules to conform to interstate operations.

4. Analysis of Time Schedule No. 1 indicates that it conforms to Appendix A, Section 12(f) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

5. Rule 31(f)(1) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, allows an order authorizing carriers to change tariffs or time schedules on less-than-statutory notice for good cause shown.

6. The Commission finds that good cause has been shown for the approval of the proposed changes in Time Schedule No. 1., and the application should be granted.

II. ORDER

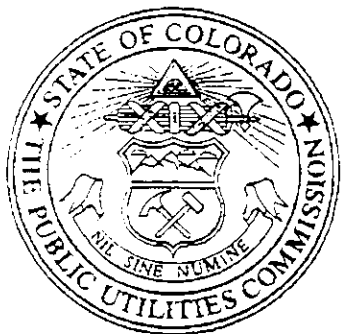
A. The Commission Orders That:

1. The application of Colorado Mountain Express to publish Time Schedule No. 1 on less-than-statutory notice is granted. Time Schedule No. 1 shall be published on not less than one day's notice.

2. This Order is effective on its Mailed Date.

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING
JANUARY 14, 2004.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

L/TRANS/ORDERS/04L-022cp

EXHIBIT 11

COLORADO MOUNTAIN EXPRESS

RECEIVED

MAR 08 2002

THE PUBLIC UTILITIES COMMISSION
STATE OF COLORADO

Thomas S. Ball
Colorado Mountain Express
PO Box 580
Vail, CO 81658

March 2, 2002

Terry Willert
Chief of Transportation
Public Utilities Corporation
1580 Logan Street
Office Level Two
Denver, CO 80203

PUC 2321- 02A-120P Waiver

Mr. Willert:

Colorado Mountain Express works diligently to provide safe, timely, and cost effective transportation service from Denver International and Eagle County Airports to and from the mountain resort destinations that we serve. CME continues to look for efficiencies within in our operation, to gain additional management controls from a time and expense standpoint. We have taken an aggressive look at our internal controls and reporting that will positively affect our internal and external users.

How does this relate to the PUC? Colorado Mountain Express has developed an internal reporting system that combines payroll, operations, and the necessary driver reporting of hours. Specifically, this reporting system allows for management auditing and control on driver hours of service. Our system has been developed with input from the staff at the PUC and combines a timecard system, as well as a "Driver's record of duty status." This document (attached sample is included) contains all of the requirements as stated in PART 395.8 Code of Federal Regulations/ Federal Motor Carrier Safety Regulations. The system, which is currently in use, allows Colorado Mountain Express to monitor our driver's hours of service "real time". This means that as the driver's day is completed, regardless of their geographical location, our management team is able to monitor their ability to be available for work the next day- within the hours of service guidelines. This process is an example of our continued commitment to driver and guest safety.


With the current CFR rule (Specifically: Rule 4 CCR 723-15-7.2.1), CME is not able to take full advantage of all the efficiencies as we had hoped. In fact CME has to duplicate our efforts for our drivers who report to work in Glenwood Springs. This rule basically states that outside of the 100 air mile radius, a logbook must be used to maintain hours of service. As a result of the discussion and information that has been supplied to the PUC

compliance staff, Colorado Mountain Express is petitioning the Public Utilities Commission through your office for a waiver to Rule 4 CCR 723-15-7.2.1 such that, for drivers whose normal work reporting location is Glenwood Springs, Rule 7.2.1 be deemed to read as follows: **"The driver operates within a 150 air mile radius of the normal work reporting location."** The position of Colorado Mountain Express is that our proposed change to the air miles regulation allows for additional management controls, as well as a more efficient and timely response to any agency wishing to determine compliance. It will not adversely affect safety issues or compliance. The system as it has been defined in this letter has been reviewed thoroughly by the PUC compliance staff. In fact, the compliance staff from Denver conducted an audit on the hours of service regulations on the Glenwood Springs based drivers. The "paper logs" were provided, and the backup "CME system Records of Active Duty Status" were made available as well. The CME system for reporting, allowed for a comprehensive audit without the need for travel time and other associated expenses for your office. In addition, **Federal Law 49 CFR 350.341(d) allows State Laws and Regulations applicable to intrastate commerce to expand the exemption based on distance a motor carrier or driver operates from the work reporting location. The 100 air mile exemption contained in 49 CFR 395.1(e) may be expanded to a maximum of 150 air miles.**

Mr. Willert, Colorado Mountain Express is committed to customer and driver safety. CME has a documented driver-training program that includes; classroom defensive driving-conducted by the Colorado State Patrol, Winter driving skills recurrent training-on ice, an internal "Highway Monitor" program that monitors drivers highway speed and driving techniques (report enclosed) through radar and photographs. We have demonstrated a commitment to providing your agency, as well as others, the information necessary to conduct audits. The request for a waiver on the air mile radius will not negatively or adversely impact agencies from either the Federal and State levels. Colorado Mountain Express looks forward to your decision on this waiver issue.

If you need any additional information please contact me directly, 1-800-525-6363 x6103.

Sincerely,



Thomas S. Bali

Vice President / General Manager

Log Summary Query

[Return To Driver Information](#) | [Return To Driver Management Menu](#) | [Active Driver List](#)

Available Logs

Driver: MANN, ROB							
	Log Page ID	Log Date	Total Driving	Total On Duty Not Driving	Total On Duty	Total Off Duty	Approved/Closed
Open	77509	02/26/2002	4.5	0	4.5	19.5	CLOSED/ACCEPTED
Open	77586	02/27/2002	0	0	0	24	CLOSED/ACCEPTED
Open	77701	02/28/2002	8	0.25	8.25	15.75	CLOSED/ACCEPTED
Open	77771	03/01/2002	6.25	0	6.25	17.75	CLOSED/ACCEPTED
Open	77867	03/02/2002	8	0	8	16	CLOSED/ACCEPTED
Open	78015	03/03/2002	4	0.25	4.25	19.75	CLOSED/ACCEPTED
Open	78180	03/04/2002	0	0	0	24	AWAITING DRIVER SIGNOFF
Open	78359	03/05/2002	1.5	2	3.5	20.5	AWAITING DRIVER SIGNOFF

Autotrack System

Record of Active Duty Status

[Return To Driver Information](#) |
 [Return To Driver Management Menu](#) |
 [Active Driver List](#)

Time	Off Duty	Driving	On Duty Not Driving	Remarks
00:00	⋮			
01:00	⋮			
02:00	⋮			
03:00	⋮			
04:00	⋮			
05:00	⋮			
06:00	⋮			
07:00	⋮			
08:00	⋮			
09:00	⋮			09:15 / 09:30 PRE-TRIP
10:00	⋮			
11:00	⋮	⋮		11:15 VD SHUTTLE
12:00	⋮	⋮		
13:00	⋮	⋮		13:15 PRE-TRIP
14:00	⋮	⋮		14:00 DV SHUTTLE
15:00	⋮	⋮		
16:00	⋮	⋮		16:00 PRE-TRIP
17:00	⋮	⋮		17:30 VD SHUTTLE
18:00	⋮	⋮		
19:00	⋮	⋮		19:30 PRE-TRIP
20:00	⋮	⋮		20:00 DV SHUTTLE
21:00	⋮	⋮		
22:00	⋮	⋮		22:00 PRE-TRIP
23:00	⋮	⋮		23:45

Date Totals

DRIVING TOTAL	8
ON DUTY NOT DRIVING TOTAL	0.25
ON DUTY TOTAL	8.25
OFF DUTY TOTAL	15.75
TOTAL LAST 8 DAYS (INCL THIS DAY)	46.3
AVAILABLE TO WORK NEXT DAY	15

Vehicle & Mileage Detail

Vehicle #	Start Mileage	End Mileage	Total Mileage
103	88055	88597	542
		TOTAL MILES	542

Company Information

Company Information	Driver Home Base
VAIL 0434 EDWARDS ACCESS ROAD EDWARDS, CO 81632	

Log Summary Query

[Return To Driver Information](#) | [Return To Driver Management Menu](#) | [Active Driver List](#)

Available Logs

Driver: MANN, ROB

	Log Page ID	Log Date	Total Driving	Total On Duty Not Driving	Total On Duty	Total Off Duty	Approved/Closed
Open	73478	02/01/2002	6	6.75	12.75	11.25	CLOSED/ACCEPTED
Open	73643	02/02/2002	8.75	1.75	10.5	13.5	CLOSED/ACCEPTED
Open	73808	02/03/2002	5	1	6	18	CLOSED/ACCEPTED
Open	73972	02/04/2002	4.5	4.25	8.75	15.25	CLOSED/ACCEPTED
Open	74136	02/05/2002	0	0	0	24	CLOSED/ACCEPTED
Open	74300	02/06/2002	0	0	0	24	CLOSED/ACCEPTED
Open	74466	02/07/2002	4.5	6.5	11	13	CLOSED/ACCEPTED
Open	74630	02/08/2002	4.5	3.5	8	16	CLOSED/ACCEPTED
Open	74796	02/09/2002	8.5	0.5	9	15	CLOSED/ACCEPTED
Open	74960	02/10/2002	8.5	0	8.5	15.5	CLOSED/ACCEPTED
Open	75125	02/11/2002	6.75	8.25	15	9	CLOSED/ACCEPTED
Open	75290	02/12/2002	4	0.5	4.5	19.5	CLOSED/ACCEPTED
Open	75452	02/13/2002	0	0	0	24	CLOSED/ACCEPTED
Open	75614	02/14/2002	0	0	0	24	CLOSED/ACCEPTED
Open	75778	02/15/2002	9	5.25	14.25	9.75	CLOSED/ACCEPTED
Open	75940	02/16/2002	8.25	0	8.25	15.75	CLOSED/ACCEPTED
Open	76102	02/17/2002	4	0.75	4.75	19.25	CLOSED/ACCEPTED
Open	76265	02/18/2002	9	7	16	8	CLOSED/ACCEPTED
Open	76427	02/19/2002	8	0.75	8.75	15.25	CLOSED/ACCEPTED
Open	76589	02/20/2002	0	0	0	24	CLOSED/ACCEPTED
Open	76994	02/22/2002	0	0	0	24	CLOSED/ACCEPTED
Open	76995	02/23/2002	9	6.75	15.75	8.25	CLOSED/ACCEPTED
Open	77184	02/24/2002	4.5	4	8.5	15.5	CLOSED/ACCEPTED
Open	77346	02/25/2002	4.75	4.75	9.5	14.5	CLOSED/ACCEPTED
Open	77509	02/26/2002	4.5	0	4.5	19.5	CLOSED/ACCEPTED
Open	77586	02/27/2002	0	0	0	24	CLOSED/ACCEPTED
Open	77770	02/28/2002	8	0.25	8.25	15.75	CLOSED/ACCEPTED

HIGHWAY MONITOR SHOT REPORT

Printed: Monday, February 11, 2002 12:05:44 PM

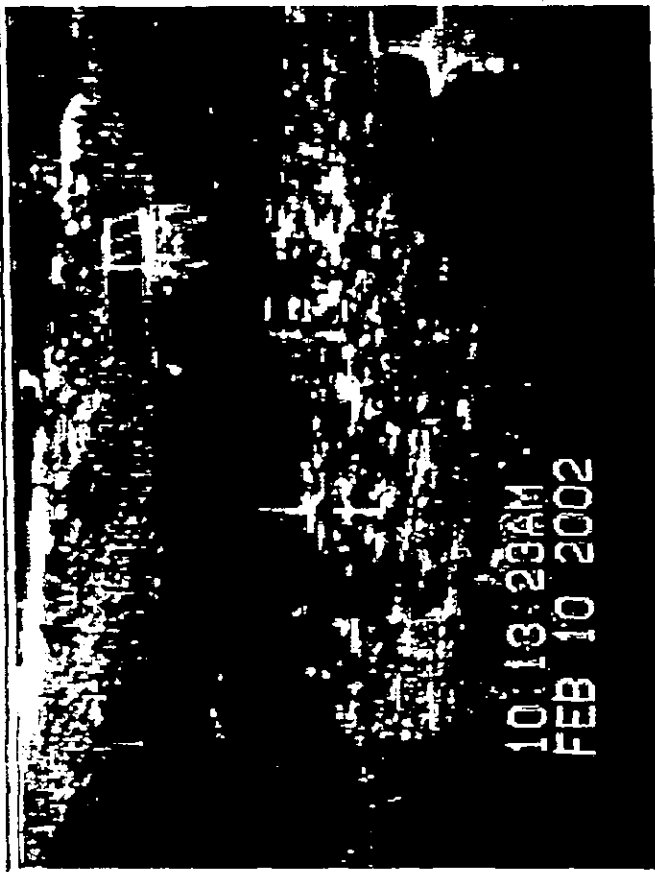
Colorado Mountain Express

Photo Detail: 101023

"Where Your Company's Safety Matters"

Shot #: 7805

Photo Reference: 1010278



Safe/Clocked Speed

Variance Vehicle ID: Van 117

Time/Direction: 10:10:28 AM/W

Road Conditions: Dry

Weather: Clear and Sunny

Driver:

Paul Sillato

MONITORING SESSION I-70 Wilmore Lake

Date: Sunday, February 10, 2002

Closest City: Edwards, CO

Start Time - End Time: 09:30 AM-12:30 PM

Route Type:

Mike

Photographer:

Safe Driving

Safe to: 3 MPH over safe speed or 2 Seconds following distance.

Over Company Safety Standards

HIGHWAY MONITOR SHOT REPORT

Printed: Monday, February 11, 2002 12:05:46 PM

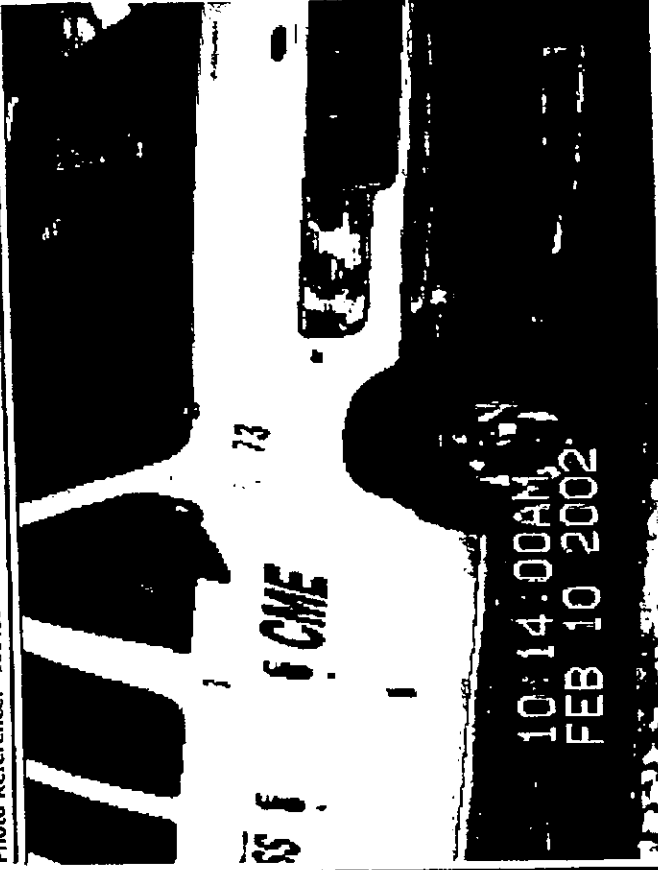
"Where your Company's Safety Matters"

Shot #: 7806

Colorado Mountain Express

Photo Detail: 101351

Photo Reference: 101400



Calculated Speed

70/72

Vehicle ID: Van 73

Time/Direction: 10:14:00 AM/E

Road Conditions: Dry

Weather: Clear and Sunny

Driver:

Kirsten Hunn

MONITORING SESSION

1-70 Willmore Lake

Date: Sunday, February 10, 2002

Closest City: Edwards, CO

Start Time - End Time: 09:30 AM-12:30 PM

Route Type:

Mike

Photographer:

Safe Driving

Safe to: 3 MPH over safe speed or 2 Seconds following distance.

Over Company Safety Standards

HIGHWAY MONITOR SHOT REPORT

Printed: Monday, February 11, 2002 12:06:12 PM

Colorado Mountain Express

Photo Detail: 110958

"Where your Company's Safety Matters"

Shot #: 7825

Photo Reference: 111008



Safe/Clocked Speed

Variance

Vehicle ID: Van 80

Time/Direction: 11:10:08 AM/E

Road Conditions: Dry

Weather

Clear and Sunny

Driver:

Jason Boes

MONITORING SECTION

I-70 Willmore Lake

Date:

Sunday, February 10, 2002

Start Time - End Time:

09:30 AM-12:30 PM

Closest City:

Edwards, CO

Route Type:

Photographer:

Mike

Safe Driving

Safe to: 3 MPH over safe speed or 2 Seconds following distance.

Over Company Safety Standards

Page 485 of 497

* Below "Posters" Colorado Speed Limit

Decision No. C02-0412

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-172CP-WAIVER

IN THE MATTER OF THE APPLICATION OF COLORADO MOUNTAIN EXPRESS
FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF
RULE 7.2.1 (MODIFICATION OF PROVISIONS OF HOURS OF SERVICE OF
DRIVERS-100 AIR-MILE RADIUS) OF THE RULES REGULATING SAFETY FOR
MOTOR VEHICLE CARRIERS AND ESTABLISHING CIVIL PENALTIES.

COMMISSION ORDER GRANTING WAIVER

Mailed Date: April 16, 2002

Adopted Date: April 10, 2002

I. BY THE COMMISSION:

Statement, Findings and Conclusions

1. By application filed March 8, 2002, Colorado Mountain Express requests a waiver of Rule 7.2.1 (Modifications of provisions of hours of service of drivers-100 air-mile radius), 4 Code of Colorado Regulations 723-15, for drivers of vehicles with a seating capacity of 15 people or less, including the driver, to allow the drivers of such vehicles operating within a 150 air-mile radius of the normal work reporting location to maintain their records of hours of service in compliance with Rule 7.2, 4 CCR 723-15.

2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on March 25, 2002. The Commission set this matter for hearing on April 23, 2002.

3. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is noncontested. Under Rules 24 and 59(g), Rules of Practice and Procedure, 4 CCR 723-1, this matter may be determined without a hearing.

4. Rule 11, 4 CCR 723-15, allows the Commission to grant a waiver from Rule 7.2.1, 4 CCR 723-15, for good cause, and if it finds compliance to be impossible, impractical or unreasonable, and if such variance is not contrary to law.

5. Colorado Mountain Express is internally using a computer program that allows it to accurately record drivers' hours of service along with other information. This program essentially duplicates the information required by Rule 7.2, 4 CCR 723-15. It is for this reason that Colorado Mountain Express requests the current waiver.

6. The submitted information reveals good cause for the grant of the requested waiver. Additionally, a grant of the requested waiver is not contrary to law, see 49 C.F.R. § 350.341(d), and compliance with Rule 7.2.1, 4CCR 723-15 is unreasonable, given the facts presented.

II. ORDER

A. The Commission Orders That:

1. Colorado Mountain Express is granted a waiver of Rule 7.2.1, Rules Regulating Safety For Motor Vehicle Carriers and Establishing Civil Penalties. 4 Code of Colorado Regulations

723-15, for drivers of vehicles with a seating capacity of 15 people or less, including the driver, and that have a gross vehicle weight rating or gross combination weight rating of less than 10,001 pounds, operating within a 150 air-mile radius of their normal work reporting location to maintain their records of hours of service in compliance with Rule 7.2, 4 CCR 723-15. The waiver is granted for the period from the effective date of this Order through May 1, 2005.

2. The hearing set for April 23, 2002, is vacated.

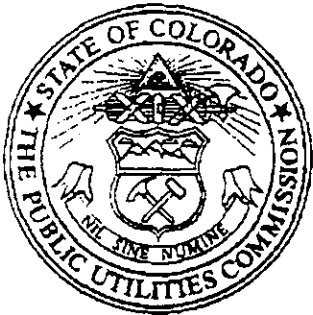
3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Order.

4. This Order is effective on its Mailed Date.

B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
April 10, 2002.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners

EXHIBIT 12

Decision No. C05-0010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-602CP-ABANDONMENT-PORION

THE APPLICATION OF EAST WEST RESORT TRANSPORTATION, LLC DOING BUSINESS AS COLORADO MOUNTAIN EXPRESS &/OR CME PREMIER &/OR PREMIER VIP TRANSPORTATION &/OR RESORT EXPRESS FOR APPROVAL TO ABANDON A PORTION OF OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 7321.

**COMMISSION ORDER APPROVING ABANDONMENT
OF A PORTION OF OPERATIONS**

Mailed Date: January 7, 2005
Adopted Date: January 5, 2005

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. On November 17, 2004 East West Resort Transportation, LLC doing business as Colorado Mountain Express &/or CME Premier &/or Premier VIP Transportation &/or Resort Express (Colorado Mountain Express) filed an application seeking approval to abandon operations under a portion of Certificate of Public Convenience and Necessity (CPCN) PUC No. 7321.

2. The portion of CPCN PUC No. 7321 to be abandoned reads as follows: transportation of passengers and their baggage, in scheduled service, between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand. This portion of the certificate is restricted against the use of four-wheel drive vehicles.

3. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on November 29, 2004. The Commission set this matter for hearing on February 1, 2005.

4. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is uncontested. Under § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

II. ORDER

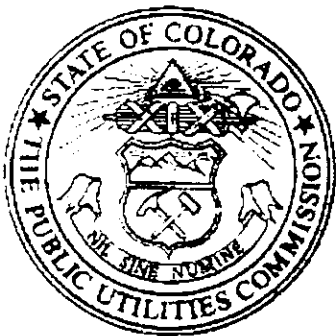
A. The Commission Orders That

1. The hearing set for February 1, 2005 is vacated.
2. This application was deemed complete on January 5, 2005 within the meaning of § 40-6-109.5, C.R.S.
3. The application filed by Colorado Mountain Express for approval to abandon operations under a portion of Certificate of Public Convenience and Necessity PUC No. 7321 is granted.
4. The complete authority under CPCN PUC No. 7321, as revised, shall be as set forth in the Appendix.
5. The 20-day time-period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, re-argument, or reconsideration shall begin on the first day after the Commission mails or serves this Order.

6. This Order is effective on its Mailed Date.

B. **ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING**
January 5, 2005.

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

Decision No. C05-0010-E

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-602CP-ABANDONMENT-PORITION

THE APPLICATION OF EAST WEST RESORT TRANSPORTATION, LLC DOING BUSINESS AS COLORADO MOUNTAIN EXPRESS &/OR CME PREMIER &/OR PREMIER VIP TRANSPORTATION &/OR RESORT EXPRESS FOR APPROVAL TO ABANDON A PORTION OF OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 7321.

ERRATA NOTICE

**COMMISSION ORDER APPROVING ABANDONMENT
OF A PORTION OF OPERATIONS**

Errata Mailed Date: January 28, 2005

Mailed Date: January 7, 2005

Adopted Date: January 5, 2005

The complete authority for Certificate of Public Convenience and Necessity PUC No. 7321 was not included in the Appendix. Item V was omitted from the Appendix. The corrected Appendix is attached with this errata.

I. Transportation of passengers and their baggage in scheduled service:

- A) between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
- B) between Denver, Colorado, and Rifle, Colorado via I-70 and U.S. Highway No. 6 serving all intermediate points; and in addition serving all off-route points within one mile of said routes located west of a line drawn north and south through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado;
- C) between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek Road serving all intermediate points, all off-route points located within one mile of said route and serving the off-route points of Snowmass Village and Snowmass Ski Resort; and
- D) between Frisco, Colorado, and Blue River, Colorado via Colorado State Highway No. 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado.

Restrictions: 1) Item A is restricted: (i) to service that originates or terminates within the County of Eagle, State of Colorado; and (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver;

2) Item B is restricted against providing service between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand; and

3). Authority is expressly granted to tack Items B, C, and D with each other to provide a through transportation service.

II. Transportation of passengers and their baggage in call-and-demand limousine service:

- A) between Denver International Airport and Denver Union Station and points within a two-mile radius of Denver Union Station, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
- B) between all points located within a 60-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado and between said points, on the one hand, and all points in the State of Colorado, on the other hand;
- C) between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- D) between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;
- E) from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; and

F) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions: 1) Item A is restricted: (i) to service that either originates or terminates within the County of Eagle, State of Colorado; (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver;

2) Item B is restricted: (i) to the use of vehicles with a passenger capacity of 14 or less excluding the driver; (ii) against any service which originates or terminates in the County of Eagle, State of Colorado; and (iii) such that any service to points in Eagle, Summit, or Lake Counties, must originate or terminate within a 15-mile radius of the intersection of Mill and Main Streets in Aspen;

3) To the extent that Item B and Item C overlap, only one operating right exists; and

4) Item F is restricted against the use of four-wheel drive vehicles.

III. Transportation of passengers and their baggage, in charter service:

A) between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;

B) between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;

C) between all points located within a 50-mile radius of Vail, Colorado;

D) between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;

E) from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; and

F) from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; G) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions: 1) Item A is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver;

2) Item C is restricted: (i) to providing service that must either originate or terminate within the County of Eagle, State of Colorado; and (ii) against providing service that originates or terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado;

3) Items E and F are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year; and

4) Item G is restricted against the use of four-wheel drive vehicles.

IV. Transportation of passengers and their baggage in special bus service:

- A) between all points within the County of Eagle, State of Colorado, and between said points, on the one hand, and all points located within Leadville, Colorado and a ten-mile radius thereof, on the other hand;
- B) between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;
- C) between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- D) from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
- E) from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado; and
- F) between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

- Restrictions: 1) Item A is restricted to service that either originates or terminates within the County of Eagle, State of Colorado;
- 2) Item B is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver;
- 3) Items D and E are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year; and
- 4) Item F is restricted against the use of four-wheel drive vehicles.

V. Transportation of passengers and their baggage in scheduled and in call-and-demand limousine service, between all points in the County of Summit, State of Colorado.



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Bruce N. Smith

BRUCE N. SMITH
Director

Dated at Denver, Colorado this
28th day of January, 2005.

EXHIBIT 13

BEFORE THE PUBLIC UTILITIES COMMISSION

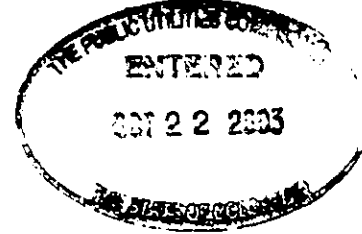
OF THE STATE OF COLORADO

1007-22 P112:38

IN THE MATTER OF THE APPLICATION OF)
ROCKY MOUNTAIN POWDER, INC.,)
4950 SOUTH YOSEMITE STREET, F-2, # 118,)
GREENWOOD VILLAGE, COLORADO 80130)
FOR AUTHORITY TO OPERATE AS A)
COMMON CARRIER FOR THE)
TRANSPORTATION OF PASSENGERS AND)
THEIR BAGGAGE IN CALL-AN-DEMAND)
LIMOUSINE SERVICE, AND CHARTER)
SERVICE)

DOCKET NO. 03A-432CP

Published in the Commission's
Notices of October 6, 2003



INTERVENTION

Colorado Mountain Express intervenes in this application for the following reasons:

1. The Applicant seeks a certificate to operate as a common carrier by motor vehicle for hire for the transportation of:

Passengers and their baggage, in call-and-demand limousine service, and charter service between all points within a 15-mile radius of the intersection of Colfax Avenue and Broadway, Denver, Colorado, on the one hand, and: (1) all points within the city limits of Black Hawk, Colorado, Breckenridge, Colorado, Copper Mountain, Colorado, Keystone, Colorado, Silverthorne, Colorado, Vail, Colorado, and Winter Park, Colorado; and (2) the ski areas at Breckenridge, Colorado, Copper Mountain, Colorado, Keystone, Colorado, Vail, Colorado, and Winter Park, Colorado, on the other hand.

2. Intervenor Colorado Mountain Express owns and operates Certificate of Public Convenience and Necessity PUC No. 7321. Certificate No. 7321 generally authorizes transportation with which the Applicant's service would be directly competitive. A copy of Intervenor's current letter

of authority pertaining to this certificate is attached to this intervention, and is incorporated herein by reference.

3. The operating rights sought by the Applicant would partially duplicate the rights contained in Colorado Mountain Express' certificate. Therefore, Colorado Mountain Express has a legally protected right in the subject matter which may be affected by the granting of the application, and is entitled to intervention of right in this proceeding.

4. Intervenor denies that the service proposed by Applicant is needed and, accordingly, Intervenor denies that there exists a valid basis for granting the application, insofar as the application involves transportation of passengers between points within a 15-mile radius of Colfax and Broadway, Denver, Colorado, on the one hand, and points in Summit and Eagle Counties, on the other.

5. Colorado Mountain Express is willing to withdraw this intervention if the Applicant will restrictively amend its application as follows: eliminate Summit and Eagle Counties as origins and destinations.

WHEREFORE, following appropriate proceedings in conformity with the law, Intervenor Colorado Mountain Express respectfully prays that this Commission make and enter its decision and order denying this application.

DATED this 21st day of October, 2003.

Respectfully submitted,

JONES & KELLER, P.C.

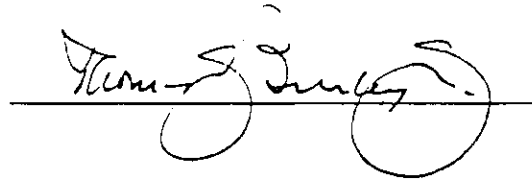


By Thomas J. Burke, Jr., #547
Suite #1600
1625 Broadway
Denver, CO 80202
Telephone: 303-573-1600
Facsimile: 303-893-6506
Attorneys For Intervenor
COLORADO MOUNTAIN EXPRESS

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 2003 a true and complete copy of the foregoing **INTERVENTION** was placed in the United States mail, first class postage prepaid, addressed as follows:

Rocky Mountain Powder, Inc.
4950 South Yosemite Street, F-2, # 118
Greenwood Village, CO 80111



LETTER OF AUTHORITY

Issued By
Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO 1580 LOGAN STREET
DENVER, COLORADO 80203

ISSUED TO:

Certificate Number: 7321

Colorado Mountain Express, a Delaware LLC.
P.O. Box 580
Vail, CO 81658

- I. Transportation of passengers and their baggage in scheduled service:
 - A. between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
 - B. between Denver, Colorado, and Rifle, Colorado via I-70 and U.S. Highway No. 6 serving all intermediate points; and in addition serving all off-route points within one mile of said routes located west of a line drawn north and south through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado;
 - C. between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek Road serving all intermediate points, all off-route points located within one mile of said route and serving the off-route points of Snowmass Village and Snowmass Ski Resort;
 - D. between Frisco, Colorado, and Blue River, Colorado via Colorado State Highway No. 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado;
 - E. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

(S E A L)



CONTINUOUS
UNTIL REVOKED, CANCELED,
SUSPENDED, ALTERED, OR AMENDED

THIS LETTER OF AUTHORITY MUST BE CARRIED IN THE CAB
OF EACH AND EVERY VEHICLE OPERATED UNDER THE
ABOVE AUTHORITY NUMBER.

LETTER OF AUTHORITY

Issued By
Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO
DENVER, COLORADO 80203

1580 LOGAN STREET

Restrictions:

1. Item A is restricted: (i) to service that originates or terminates within the County of Eagle, State of Colorado; and (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver.
2. Item B is restricted against providing service between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand.
3. Authority is expressly granted to tack Items B, C, and D with each other to provide a through transportation service.
4. Item E is restricted against the use of four-wheel drive vehicles.
- II. Transportation of passengers and their baggage, in taxicab service:
 - A. between all points in the County of Eagle, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand;
 - B. between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and Denver International Airport, on the other hand;
 - C. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
 - D. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
 - E. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

(S E A L)



CONTINUOUS
UNTIL REVOKED, CANCELED,
SUSPENDED, ALTERED, OR AMENDED

THIS LETTER OF AUTHORITY MUST BE CARRIED IN THE CASE
OF EACH AND EVERY VEHICLE OPERATED UNDER THE
ABOVE AUTHORITY NUMBER.

LETTER OF AUTHORITY

Issued By
Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION
OFFICE LEVEL TWO 1580 LOGAN STREET
DENVER, COLORADO 80203

Restrictions:

1. Item A is restricted to service that originates or terminates within the County of Eagle, State of Colorado.
 2. Items B, C and D are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
 3. Item E is restricted against the use of four-wheel drive vehicles.
 4. Item E is restricted against service that originates or terminates within the County of Eagle, Colorado.
- III. Transportation of passengers and their baggage in call-and-demand limousine service:
- A. between Denver International Airport and Denver Union Station and points within a two-mile radius of Denver Union Station, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
 - B. between all points located within a 60-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado and between said points, on the one hand, and all points in the State of Colorado, on the other hand;
 - C. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
 - D. between points in the County of El Paso, State of Colorado, on the one hand, and points in the State of Colorado, on the other hand;
 - E. between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;
 - F. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;

(S E A L)



**CONTINUOUS
UNTIL REVOKED, CANCELED,
SUSPENDED, ALTERED, OR AMENDED**

THIS LETTER OF AUTHORITY MUST BE CARRIED IN THE CAB
OF EACH AND EVERY VEHICLE OPERATED UNDER THE
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LETTER OF AUTHORITY

Issued By
Department of Regulatory Agencies

THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO
DENVER, COLORADO 80203

1580 LOGAN STREET

- G. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
- H. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions:

1. Item A is restricted: (i) to service that either originates or terminates within the County of Eagle, State of Colorado; (ii) against maintaining an office at any other place than Vail, Colorado; (iii) to operations and service only between November 1 of each year and April 30 of the following year; and (iv) to the use of vehicles having a capacity of 20 persons or less, including the driver.
2. Item B is restricted: (i) to the use of vehicles with a passenger capacity of 14 or less excluding the driver; (ii) against any service which originates or terminates in the County of Eagle, State of Colorado; and (iii) such that any service to points in Eagle, Summit, or Lake Counties, must originate or terminate within a 15-mile radius of the intersection of Mill and Main Streets in Aspen.
3. To the extent that Item B and Item C overlap, only one operating right exists.
4. Item D is restricted: (i) to the use of vehicles with a seating capacity of eight or more passengers plus the driver; (ii) against providing service to or from Powder Horn Ski Area in the County of Mesa, State of Colorado; (iii) against providing service to or from points in the Counties of Adams, Arapahoe, Boulder, Chaffee, Denver, Douglas, Fremont, Jefferson, Gilpin, Pueblo, or Teller, State of Colorado or points located within a five-mile radius of the intersection of 6th and Harrison Streets in Leadville, Colorado (ski areas and ski resorts are specifically excepted from this restriction); and (iv) against providing service from points in the County of Gunnison, State of Colorado.
5. Items F and G are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
6. Item H is restricted against the use of four-wheel drive vehicles.

(S E A L)



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- IV. Transportation, in sightseeing service, of passengers:
- A. between all points in the State of Colorado, provided the transportation service originates and terminates in Eagle County;
 - B. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;
 - C. between Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin, Colorado, on the one hand, and Denver International Airport, on the other hand;
 - D. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions:

- 1. Item B is restricted: (i) against the use of four-wheel drive vehicles, and (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado.
- 2. Item C is restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
- 3. Item D is restricted against the use of four-wheel drive vehicles.
- V. Transportation, in charter service, of passengers and their baggage,
 - A. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;

(S E A L)



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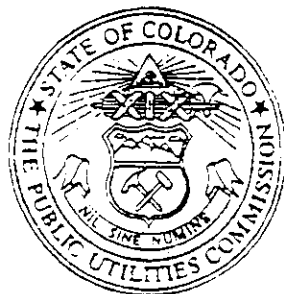
1580 LOGAN STREET

- B. between points in the County of El Paso, State of Colorado, on the one hand, and all points in the State of Colorado, on the other hand;
- C. between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;
- D. between all points located within a 50-mile radius of Vail, Colorado;
- E. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- F. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
- G. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
- H. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

Restrictions:

1. Item A is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver.
2. Item B is restricted: (i) to providing service that both originates and terminates in El Paso County on service provided to or from points in the County of Weld, State of Colorado; (ii) against providing service to or from points in the Counties of Adams, Arapahoe, Boulder, Chaffee, Denver, Douglas, Fremont, Jefferson, Gilpin, Pueblo, or Teller, State of Colorado or points located within a five-mile radius of the intersection of 6th and Harrison Streets in Leadville, Colorado (ski areas and ski resorts are specifically excepted from this restriction); and (iii) against providing service from points in the County of Gunnison, State of Colorado.

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3. Item D is restricted: (i) to providing service that must either originate or terminate within the County of Eagle, State of Colorado; and (ii) against providing service that originates or terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado.
4. Items F and G are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
5. Item H is restricted against the use of four-wheel drive vehicles.
- VI. Transportation of passengers and their baggage in special bus service:
 - A. between all points within the County of Eagle, State of Colorado, and between said points, on the one hand, and all points located within Leadville, Colorado and a ten-mile radius thereof, on the other hand;
 - B. between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;
 - C. between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the Counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
 - D. from Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
 - E. from Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
 - F. between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

(S E A L)



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THE PUBLIC UTILITIES COMMISSION

OFFICE LEVEL TWO 1580 LOGAN STREET
DENVER, COLORADO 80203

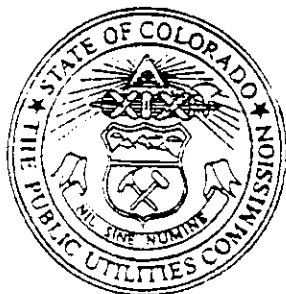
Restrictions:

1. Item A is restricted to service that either originates or terminates within the County of Eagle, State of Colorado.
2. Item B is restricted: (i) against the use of four-wheel drive vehicles; (ii) to providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; (iii) to the use of vehicles with a passenger capacity of 15 or more, excluding the driver.
3. Items D and E are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
4. Item F is restricted against the use of four-wheel drive vehicles.

Decision No. C99-821

Mailed Date: August 3, 1999

(S E A L)



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CONFIDENTIAL

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

CONFIDENTIAL
VERIFIED STATEMENT OF DINO IOANNIDES

1. I am employed by the Public Utilities Commission of the State Colorado ("CPUC") as the supervisor of the Rates and Authorities Unit of the CPUC Transportation Section. My office is located at 1580 Logan, OL-2, Denver, Colorado 80203. I am authorized to offer this statement on behalf of CPUC in the instant declaratory order proceeding before this Board.

2. My responsibilities include supervising the unit that processes filings by motor carriers concerning their rate tariffs, time schedules, and applications for an operating authority. Furthermore, the Transportation Section of the CPUC heavily relies on me to build and maintain complex relational databases and to perform data analysis.

3. I have reviewed the petition for declaratory order filed by East West Resort Transportation, LLC, and TMS, LLC, doing business as Colorado Mountain Express ("CME"), the petitioner in this proceeding. Further, I have focused on the factual statements and electronic

data provided by Mr. Jay Ufer (CME), Mr. Mark Uhlfelder (Aspen Ski Tours), Mr. Bruce Rosard (Moguls Mountain Travel), and Mr. Christopher Jarnot (Vail Resort Management Company and its associated third-party accounts). This verified statement critiques CME's claim that CME provides sufficient regular-route passenger transportation services in interstate commerce so as to enable it to also provide all of its scheduled intrastate services pursuant to its federal license. I have examined whether CME's data can support a conclusion that CME provided bona fide, actual, and substantial interstate scheduled service in 2003. In my view, CME's data cannot, ultimately, support such a conclusion.

4. As a starting point, all of my data analysis is based on the electronic information provided by CME in response to discovery in this matter. I have relied heavily on the data contained in CME's electronic support to its response to CPUC Interrogatory Nos. 1-7 and 1-10.¹ CME's response to CPUC Interrogatory No. 1-10 includes the spreadsheet that CME is relying on in defense of its position that it transported [REDACTED] passengers in interstate commerce in scheduled service in calendar year 2003. According to CME's response to CPUC Interrogatory No. 1-7, which response details all scheduled operations performed by CME in 2003, CME transported a total of [REDACTED] passengers in combined interstate and intrastate commerce in scheduled service in 2003. Thus, based on this data, CME claims that its scheduled service operations broke down as follows: [REDACTED] in interstate commerce and [REDACTED] in intrastate commerce.

¹ Due to its size, the original of the CME discovery response is attached hereto as electronic files. However, while I did review this information, the passenger names and net revenues were deleted by counsel prior to my review.

5. I used CME's electronic response to CPUC Interrogatory No. 1-10 to prepare two exhibits (the data I used is from a version of the document that redacted all "highly confidential" information). In doing so, I imported CME's electronic spreadsheet into a database, which enabled me to filter the various third parties and to sum the volume of passengers associated with each third party. The first exhibit presents CME's data alphabetically by third party. *See* Exhibit 1. The second exhibit contains the same data, but organizes the data by volume of passengers. *See* Exhibit 2. The numbers I present, below, are based upon these two exhibits.

6. In great part because CME insisted that passenger names be designated as "highly confidential" under the terms of the protective order issued in this proceeding and therefore were not provided to me, I am aware of, but cannot explain various passenger count discrepancies. For example, CME and Mr. Uhlfelder claim that Aspen Ski Tours placed [REDACTED] interstate passengers on CME's shuttles. However, CME's electronic support for its response to CPUC Interrogatory 1-10 only evidences [REDACTED] passengers for the Aspen Ski Tours account. *See* Exhibit 1. Furthermore, this data represents the second adjustment to this figure since CME made its filing with the Board (first, by CME in refining its passenger counts, from [REDACTED] to [REDACTED] and second, by me, from [REDACTED] to [REDACTED] as a result of my analysis of CME's data provided in discovery). While this and other discrepancies seem small and might be attributable to "no shows" or other explanations, the simple fact that discrepancies exist should raise red flags concerning the overall accuracy of CME's data and traffic study conclusions.

7. CME witness, Mr. Ufer, describes in his verified statement the two broad categories into which Mr. Ufer placed CME's passengers. The categories are (1) passengers that used a third party to assist in making a CME advanced booking ([REDACTED]%), and (2) walk-ups and

passengers that have made advance reservations directly with CME without the aid of a third party (██████). CME has classified all of its Category 2 passengers as intrastate. Based on CME's representations, I therefore treat ██████ (or ██████) as the minimum number of CME's 2003 intrastate passenger traffic.

8. In reviewing CME's data, I have determined that less than 1% of the passengers transported by CME in scheduled service in 2003 could have been prearranged by an interstate air carrier pursuant to a through ticketing or common arrangement. *See Exhibit 3.* However, to the extent that the Board determines that a non-carrier third party arrangement might also qualify as "interstate" if made pursuant to through ticket/common arrangements, my analysis will also consider that possibility.

9. Because CME never operates to or from points outside of Colorado, does not book airline seats for its passengers, and admits that more than 75% of its scheduled service passengers are riding its shuttles in intrastate commerce, it is fair to question the veracity of CME's claim that, in 2003, its intrastate operations were conducted according to the terms of its federal operating authority. This is especially true given the demonstration below that many of CME's third parties do not themselves arrange for their customer's air transportation. Most third parties that do arrange for air transportation only do so for a portion of the customers that they place on CME's shuttles. Indeed, it is the rare third party that always books air in conjunction with CME ground transportation.

10. With its Exhibit 12, CME seems to imply that a customer of a third-party normally purchases CME shuttle service simultaneously with the purchase of air travel. Without more, such an implication or suggestion is conclusory at best as CME provides no evidence to

support this. In performing my analysis, learned that third-party passenger confirmation documents and/or website bookings can involve the mere purchase of CME shuttle service without the purchase of air travel. Exhibit 4 is a sample 2003 Aspen Ski Tours/Ski.com confirmation document with all of the personal identification and price information removed. Unlike Exhibit 12 to CME's document appendix, my Exhibit 4 shows a three-component tour package consisting of a CME "Great Rate" shuttle service, lodging in Breckenridge, Colorado, and an 8-day adult lift ticket. This sample confirmation document does not include interstate air travel as a component of the package sold by Aspen Ski Tours/Ski.com. Unfortunately, CME does not maintain this type of data for each third party booking, which makes identification and quantification of such packages impossible. Thus, I believe that all CME passengers associated with this and other similar tour packages must be excluded from the passengers that CME claims it has transported in interstate commerce.

11. Similarly, Mark Travel is an omnibus tour packager emphasizing travel to leisure destinations through no less than 14 brands. *See* Exhibit 5. I have performed a reservation analysis as a comparison to Exhibit 15 of CME's document appendix. While the look of the printout of my web-reservation differs from Exhibit 15 to CME's document appendix (presumably because United Vacations has updated its website), the comparison can be readily made. In Exhibit 6 to this verified statement, I have demonstrated that a two-component (hotel and CME) intrastate prearranged package can be made without the necessity of booking air travel.

12. I believe that CME's claim that 100% of the passengers that came to it through a third-party booking were transported in interstate commerce is not credible. I have made my

analysis with full knowledge that a handful of judicial decisions (despite no blanket pronouncement from this Board or its predecessor, the Interstate Commerce Commission) have determined that, in certain circumstances, a tour package put together by a non-carrier third party may place that passenger in the stream of interstate commerce. However, consistent with the decisions issued by this Board's predecessor, the Interstate Commerce Commission and numerous other judicial decisions, I am of the opinion that a two-element package that includes only prearrangement of CME ground transportation and lodging does not result in the transportation of that passenger in interstate commerce.

13. My review of CME's responses to CPUC Interrogatory Nos. 1-7 and 1-10 and the third-party supporting statements that CME provided in response to discovery, combined with my own research, demonstrates the following.

a. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]: On deposition, [REDACTED]
[REDACTED] conceded that not all of the [REDACTED] of its customers on whose behalf it made reservations on CME acquired the air travel component of their trip as part of the package sold by [REDACTED]. See Exhibit 7 (page 39, l. 18 – 40, l. 23); Exhibit 8 (page 42, l. 1 – 43, l. 14). Moreover, the [REDACTED] [REDACTED] data it used to verify the data that CME provided does not indicate in any way whether the those customers purchased an airline ticket in addition to lodging and CME ground transportation service. See Exhibit 9 (p. 55, ll. 6-12 and p. 59,

11. 13-18). Because [REDACTED] cannot confirm the proportion of its customers that purchased both air travel and CME shuttle service, and because the burden clearly lies with CME, CME should not be able to rely on any of [REDACTED] data to support its quantification of interstate passenger traffic.

b. [REDACTED] This entity specifically claimed in a May 28, 2004 e-mail that while all of the identified guests that were booked with CME had their "land stay" arranged by [REDACTED] some guests secured their own airline ticket. See Exhibit 10. Thus, something less than 100% of the [REDACTED] passengers placed on CME by [REDACTED] had a through ticketing or common arrangement with the air segment of their journey. Because [REDACTED] cannot confirm the proportion of its customers that purchased both air travel and CME shuttle service, and because the burden clearly lies with CME, CME should not be able to rely on any of [REDACTED] data to support its quantification of interstate passenger traffic.

c. [REDACTED]: I e-mailed Colorado Host regarding the travel components that it offers. [REDACTED] replied that it does not offer air ticket services. See Exhibit 11. Thus, none of the [REDACTED] passengers brought to CME by [REDACTED] had purchased a package that included an interstate component.

d. [REDACTED]: This company stated in a June 1, 2004 letter that only [REDACTED] of its clients purchased a package that combined both an air and a CME component. See Exhibit 12. Again, CME has assumed that 100% of the [REDACTED] passengers placed on CME by [REDACTED] were transported in interstate

commerce even though the third party specifically verified that only [REDACTED] % of its customers purchased both air and CME transportation service.

e. [REDACTED]

This entity booked only [REDACTED] passengers on CME. This passenger volume provides a better analytical starting point than the [REDACTED] company-wide packages referred to in Mr. Rosard's verified statement. Starting from the [REDACTED] passengers actually supported by CME's data, [REDACTED] specifically claimed in a May 28, 2004 letter that [REDACTED] % of its guests purchased packages consisting only of lodging, lift tickets and ground transportation on CME. See Exhibit 13. [REDACTED]

[REDACTED]) As in the other examples above, CME has assumed that 100% of the [REDACTED] passengers placed on CME by [REDACTED] were transported in interstate commerce, despite the fact that even though the third party specifically verified that only [REDACTED] % of its customers purchased both air and CME transportation service.

f. [REDACTED]

[REDACTED]: CME is claiming that all [REDACTED] passengers that it received via this third party were transported in interstate commerce. CME makes this claim despite the fact that it received an e-mail dated June 11, 2004, in which [REDACTED] states that "the percentage of CME bookings made through [REDACTED] that was packages (sic) with air was disappointingly low . . . [REDACTED] to be

exact.” *See* Exhibit 14. In my opinion, CME should have claimed at most only [REDACTED] passengers from [REDACTED] as being transported in interstate commerce.

g. [REDACTED] I e-mailed the [REDACTED] regarding the travel components that it offers. [REDACTED] replied that it does not offer air ticket services. *See* Exhibit 15. Thus, none of the [REDACTED] passengers brought to CME by the [REDACTED] could have purchased a package that included an interstate component.

h. [REDACTED] This internet travel site offers a full menu of travel options and amenities to those making travel arrangements using its services. [REDACTED] placed [REDACTED] passengers on CME in 2003. CME claimed all of these passengers as being transported in interstate commerce even though, by letter dated June 24, 2004, [REDACTED] states that only [REDACTED] the passengers it placed on CME were placed pursuant to a travel package that included air. *See* Exhibit 16. Thus, only [REDACTED] of [REDACTED] passengers meet the through ticket/common arrangement element of the interstate ground transportation test.

i. [REDACTED] I e-mailed the [REDACTED] [REDACTED] regarding the travel components that it offers, which replied that it does not offer air ticket services. *See* Exhibit 17. Thus, none of the [REDACTED] passengers brought to CME by the [REDACTED] had purchase a package that included an interstate component.

j. [REDACTED] I e-mailed the [REDACTED] regarding the travel components that it offers, which replied that it does not offer air ticket services.

See Exhibit 18. Thus, none of the [REDACTED] passengers brought to CME by the [REDACTED]

[REDACTED] had purchased a package that included an interstate component.

k. [REDACTED] I e-mailed the [REDACTED] regarding the travel components that it offers, which Vail replied that it does not offer air ticket services. See Exhibit 19. Thus, none of the [REDACTED] passengers brought to CME by the [REDACTED] had purchased a package that included an interstate component.

l. I also reviewed the websites and made phone calls to other third party arrangers. While no documentary evidence of these inquiries exists, it is my understanding based upon those inquiries that the [REDACTED] [REDACTED] passengers) and the [REDACTED] [REDACTED] passengers) do not offer air ticket services. Thus, I would remove an additional [REDACTED] passengers from CME's supposed "interstate" passengers.

m. Lastly, there are many third parties listed by CME that are very difficult to categorize or qualify without significant further research. Entities such as [REDACTED], the [REDACTED], the [REDACTED], and [REDACTED] to name a few, do not seem to be likely candidates for brokering air travel and ground transportation packages for anybody other than themselves. In other words, these numerous entities are not likely to be "third parties" at all, but are likely to be entities arranging travel for themselves and their employees. In any event, it is for CME, not CPUC, to establish how these numerous entities fit into the through ticketing/common arrangement test.

14. My analysis accordingly contradicts CME's response to Interrogatory 1-10, attached as Exhibit 20, that [REDACTED] passengers were transported "pursuant to a multi-element

travel or vacation package which included air and ground transportation arranged for via a web page, ski resort, travel agent or other third-party provider.”

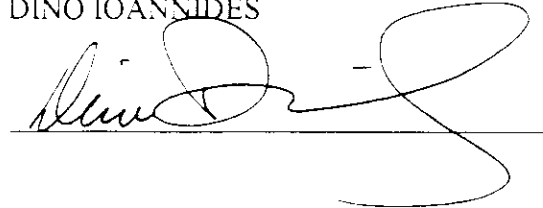
15. The manner in which CME operates under a network of authorized regular routes is similarly indicative that its claim to substantial interstate operations is overblown. Based on my analysis of CME’s response to CPUC Interrogatory No. 1-7, [REDACTED] of all passengers on CME’s scheduled routes travel between EGE, on the one hand, and, on the other hand, the resorts of Vail and Avon/Beaver Creek. These passengers are those that received service from CME along CME’s “Eagle-Vail” and “Vail-Eagle” routes. While EGE and the towns of Vail and Avon/Beaver Creek are all intermediate points on CME’s authorized Denver to Grand Junction, CO route, CME’s Eagle-Vail/Vail-Eagle route is merely a localized shuttle route operated independently from the authorized Denver to Grand Junction, CO route. Moreover, even though technically possible, I believe that CME does not, in the regular conduct of its business, significantly interconnect its Eagle-Vail/Vail-Eagle route with any other route. Thus, I believe that certain Eagle-Vail/Vail-Eagle route-specific analysis is appropriate. To this end, I have examined a map of Colorado and determined that the Town of Vail is 23.5 nautical miles from EGE and that the Town of Avon/Beaver Creek is 17.7 nautical miles from EGE. Because both Vail and Avon/Beaver Creek are within the 25 air (nautical)-mile radius of EGE, CME’s Eagle-Vail/Vail-Eagle routes appear to be within the interstate exempt zone and should not be counted as moving pursuant to their federal regular route authority. These [REDACTED] passengers should also not count toward determining the substantiality of interstate traffic.

16. Accordingly, and as explained above, my research of CME’s business records produced in discovery demonstrates that because CME has largely ignored the required

"through-ticketing or other common arrangement" element, CME has inflated its "interstate" passenger count in this matter. Even without subtracting the Eagle-Vail/Vail-Eagle traffic (because of overlapping data), the evidence shows that at least [REDACTED] of [REDACTED] claimed interstate passengers [REDACTED] from [REDACTED]; [REDACTED] from [REDACTED] [REDACTED] from [REDACTED] [REDACTED] from [REDACTED], [REDACTED] from [REDACTED] [REDACTED] from [REDACTED]; [REDACTED] from [REDACTED]; [REDACTED] from [REDACTED] [REDACTED] from V[REDACTED] [REDACTED] from the [REDACTED] [REDACTED] from the [REDACTED]; and [REDACTED] from the [REDACTED]) were mis-assigned to that category and, instead are properly categorized as part of CME's intrastate passenger traffic. The effect of these adjustments alone would shrink CME's Category 1 passengers to a maximum of [REDACTED] or only [REDACTED]% of CME's total passengers transported in scheduled service. This, of course, assumes that non-carrier third parties even qualify as a third party capable of creating a through ticket/common arrangement. I further believe that, had a thorough analysis been completed, as CME is required to do in the proper conduct of a traffic study, such analysis would further significantly reduce the number of passengers that CME actually transported in interstate commerce in 2003 pursuant to its federally issued regular route operating authorities.

Dated this 7th day of September, 2005.

DINO IOANNIDES



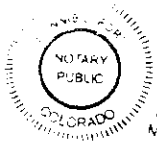
STATE OF COLORADO)

) ss:

COUNTY OF)

Subscribed and affirmed, or sworn to, before me in the County of Denver,
State of Colorado, this 7th day of September, 20 05.

My Commission Expires: 4-30-08



Bonnie L. Ford
Notary Public
State of Colorado

My Commission Expires 4-30-08

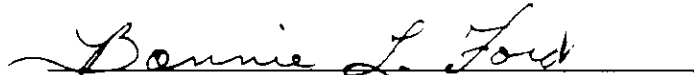

Notary Public

EXHIBIT 1

REDACTED

EXHIBIT 2

REDACTED

EXHIBIT 3

REDACTED

EXHIBIT 4

REDACTED

EXHIBIT 5

REDACTED

EXHIBIT 6

REDACTED

EXHIBIT 7

BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

DEPOSITION OF CHRISTOPHER JARNOT

EAST WEST RESORT TRANSPORTATION, LLC, AND TMS, LLC,
d/b/a COLORADO MOUNTAIN EXPRESS

Thursday, July 14, 2005
9:20 a.m.

PURSUANT TO NOTICE the above-entitled proceeding was
taken at 137 Benchmark Road, Avon, Colorado before
Michele Koss, Certified Shorthand Reporter and Notary
Public within Colorado.

1 Resorts' customers that purchased both air and CME?

2 A. Right.

3 Q. Okay. Is there anything in Deposition
4 Exhibit 1 or the remainder of Deposition Exhibit 3 that
5 modifies your understanding of CME's request?

6 A. No.

7 Q. Okay. So your understanding is based on
8 your reading of these documents that produced your
9 letter that is Deposition Exhibit 4 is that CME was
10 seeking the subset of Vail Resorts' client customers
11 that purchased both air and CME ground transportation
12 from Vail?

13 A. That is my understanding of Exhibits 1, 2,
14 3, but, again, I do not remember that I created this
15 letter in response to these documents because I do not
16 remember creating this letter, and I do not remember
17 seeing these documents.

18 Q. But to clarify, based on your understanding
19 of Exhibits 1, 2 3, and I realize the disclaimer that
20 you just made, your reading today of Exhibits 1, 2, 3 is
21 that they are looking for the subset of Vail Resorts'
22 customer clients that purchased both CME and air as part
23 of a single transaction?

24 A. Correct.

25 Q. Deposition Exhibit 4, does the number, the

1 20,115 guest seats number there represent that subset or
2 does it include passengers that might not have purchased
3 their air through Vail Resorts?

4 A. This number is similar to the number that
5 is in the other statement that I recall signing and
6 that I read prior to this deposition.

7 Q. Okay.

8 A. And what I believe that number represents
9 is that of all of the reservations that we made with
10 Colorado Mountain Express in 2003, 20,115 or 97.6
11 percent of the total number had -- we booked 20,115
12 seats that had airline information provided to us and
13 was in our records, but we may not have booked the air
14 ticket for them. They may have booked it themselves
15 and then booked a package with us that included CME,
16 and we collected the ticket information that they had
17 booked themselves for the air ticket and provided it to
18 CME when we booked the ground transportation
19 reservation.

20 Q. So the subset of passengers that CME was
21 seeking on the second page of Deposition Exhibit 3 would
22 be a number smaller than the 20,115?

23 A. Correct.

24 Q. Do you know how much smaller?

25 A. I don't.

EXHIBIT 8

BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

DEPOSITION OF SUSAN RUBIN-STEWART

EAST WEST RESORT TRANSPORTATION, LLC, AND TMS, LLC,
d/b/a COLORADO MOUNTAIN EXPRESS

Thursday, July 14, 2005
12:42 p.m.

PURSUANT TO NOTICE the above-entitled proceeding was
taken at 137 Benchmark Road, Avon, Colorado before
Michele Koss, Certified Shorthand Reporter and Notary
Public within Colorado.

1 Q. Okay. So the 20,115 number though
2 represents all CME 2003 passengers that Vail Resorts
3 booked through one of its seven booking agencies,
4 booking desks that we have discussed previously that
5 provided air information at the time of their
6 reservation?

7 A. Yes.

8 Q. So it does not include -- the 20,115
9 includes both passengers or both clients of Vail Resorts
10 that purchased their air through Vail Resorts, as well
11 as those who purchased their air independent of Vail
12 Resorts?

13 A. Yes.

14 Q. Having reviewed Deposition Exhibit 3,
15 specifically the second page, do you believe at that
16 point in time CME was looking for different, a different
17 subset of information than will be represented by
18 20,115?

19 A. I really don't have an opinion.

20 Q. Would you agree with me that the information
21 that is being sought for purposes of verification on the
22 second page of Exhibit 3 is looking for only those
23 customers that purchased both airline tickets and CME
24 through Vail Resorts, to the extent this letter was
25 directed to you?

1 A. It looks like that sentence is -- they are
2 asking that question in that sentence, yes.

3 Q. But the 20,115 would be nonresponsive to
4 that sentence?

5 A. Correct.

6 Q. It would be a smaller number?

7 A. Correct.

8 Q. Okay. Do you know how much smaller?

9 A. No.

10 Q. Do you have any way of determining what that
11 subset of information -- what that subset is for 2003
12 passengers?

13 A. It would be very difficult or potentially
14 impossible to get.

15 Q. Okay. How would you go about doing it?

16 A. I would have to ask our IT department to
17 write a report that accessed our guest history files
18 and see if they can -- if the data is in our history
19 files, and see if they can write a report that would --
20 if they can determine how many passengers had both air
21 and shuttle that they purchased through us.

22 Q. Would that task be different for customers
23 on the trip system versus customers on the LMS system?

24 A. There would be two different system
25 reports.

EXHIBIT 9

BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

DEPOSITION OF SUSAN RUBIN-STEWART

EAST WEST RESORT TRANSPORTATION, LLC, AND TMS, LLC,
d/b/a COLORADO MOUNTAIN EXPRESS

Thursday, July 14, 2005
12:42 p.m.

PURSUANT TO NOTICE the above-entitled proceeding was taken at 137 Benchmark Road, Avon, Colorado before Michele Koss, Certified Shorthand Reporter and Notary Public within Colorado.

1 Q. Okay.

2 A. We predetermined that lodging would have
3 existed.

4 Q. "We" being Vail Resorts?

5 A. Yes.

6 Q. So loding would have been already booked and
7 these passengers also booked Colorado Mountain Express
8 or Resort Express?

9 A. Yes.

10 Q. But it does not indicate in any way whether
11 that reservation also purchased an airline ticket?

12 A. Correct.

13 Q. Okay. The option primary code does not also
14 provide information about any particular customer's
15 airline information?

16 A. No.

17 Q. Does the option primary code provide any
18 other information other than a booking on Colorado
19 Mountain Express or Resort Express having been made
20 through Vail/Beaver Creek Reservation or Reservation for
21 the Summit?

22 A. No.

23 Q. Is there anything else that you believe that
24 you can tell us about with respect to that column?

25 A. I think that you have exhausted it.

1 A. Yes.

2 Q. How about the report that you would have
3 prepared in the summer of 2004, the verification report,
4 the same?

5 A. Yes.

6 Q. It would not in the ordinary course of
7 business?

8 A. Yes.

9 Q. However the data contained in those reports
10 is data maintained and retained in the ordinary course
11 of business?

12 A. Yes.

13 Q. Based on one's reading of both deposition
14 Exhibit 9 or the abbreviated version that you would have
15 compared in 2004, is it possible to determine which
16 passengers purchased their airline ticket from Vail
17 Resorts?

18 A. No.

19 Q. Okay. Would one expect the total passenger
20 numbers from Vail-Beaver Creek Reservations in
21 Confidential Deposition Exhibit 9 to sum up to the
22 public number? It is the 7,265 guest seats for CME.

23 A. If you went and multiplied passengers times
24 whether it was a round trip or a one way and then it
25 should be very close. I would not say that it is

EXHIBIT 10

REDACTED

EXHIBIT 11

REDACTED

EXHIBIT 12

REDACTED

EXHIBIT 13

REDACTED

EXHIBIT 14

REDACTED

EXHIBIT 15

REDACTED

EXHIBIT 16

REDACTED

EXHIBIT 17

REDACTED

EXHIBIT 18

REDACTED

EXHIBIT 19

REDACTED

EXHIBIT 20

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

PETITIONERS' RESPONSES TO FIRST INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY
THE COLORADO PUBLIC UTILITIES COMMISSION
TO CME

Petitioners, East West Resort Transportation, LLC, and TMS, LLC, d/b/a Colorado Mountain Express ("CME"), respond herewith to the First Interrogatories and Requests for Production of Documents propounded by Respondent, the Public Utilities Commission of the State of Colorado ("CPUC").

I.
GENERAL OBJECTION

CME objects to the "Instructions" and "Definitions" preceding CPUC's discovery requests to the extent that they exceed the scope of the Board's regulations governing discovery. CME will in each such instance disregard such "Instruction" or "Definition" in responding to a pertinent discovery request.

II.
CME'S RESPONSES TO INTERROGATORIES

CPUC1-1. Identify each person answering, preparing answers to, or assisting in any way in the preparation of answers to these second interrogatories.

CPUC1-10. For each passenger identified in response to Interrogatory No. CPUC1-8, identify the basis for CME's contention that the passenger was transported in interstate commerce (for purposes of this interrogatory, the response may indicate the total number of passengers associated with a particular third party and/or "packaging" entity, such as Moguls Mountain Travel or Vail Resorts Management Company.

RESPONSE:

Each passenger identified in response to Interrogatory No. CPUC1-8 was transported by CME pursuant to a multi-element travel or vacation package which included air and ground transportation arranged for via a web page, ski resort, travel agent or other third-party provider, which at a minimum, in addition to CME's ground transportation, included air transportation originating or terminating in a state other than Colorado. 62,807 of such passengers were transported in scheduled, regular route service, and 18,286 were transported in charter or special operations service.

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HIGHLY CONFIDENTIAL

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

ADDENDUM TO IOANNIDES STATEMENT

CME DISCOVERY RESPONSES

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

**CONFIDENTIAL SUPPLEMENT OF COUNSEL
TO STATEMENT OF DINO IOANNIDES**

Because certain information from Aspen Ski Tours/Ski.com was designated as Highly Confidential under the protective order issued in this proceeding, this information has not been reviewed by Mr. Dino Ioannides. However, the specific information contained in this Confidential Supplement should be read in conjunction with and as if it were a part of Mr. Ioannides' verified statement.

Specifically, in his deposition, Mr. Mark Uhlfelder addressed the issue of the percentage of the passengers that Aspen Ski Tours/Ski.com placed on CME, which passengers also acquired air travel from Aspen Ski Tours/Ski.com. Mr. Uhlfelder stated that [REDACTED] % of the [REDACTED] passengers that Aspen Ski Tours/Ski.com placed on CME in 2003 purchased a land-only package. See Exhibit 1 to this Confidential Supplement. CME has claimed that all [REDACTED] of these passengers were transported in interstate commerce. However, based on Mr. Uhlfelder's sworn testimony it is more appropriate to remove [REDACTED] passengers from CME's interstate passenger count.

Thus, adding this information to the conclusions reached in paragraph XX of Mr. Ioannides' verified statement, CPUC's final position is that CME transported at most [REDACTED] passengers [REDACTED] in interstate commerce.

Dated this 9th day of September, 2005.

David A. Beckett, 23098
Assistant Attorney general
Business and Licensing Section
Counsel of Record

Edward D. Greenberg
Galland, Kharasch, Greenberg, Fellman
& Swirsky, P.C.
Special Assistant Attorney General

Attorneys for the Public Utilities Commission
Of the State of Colorado

EXHIBIT 1

REDACTED

CERTIFICATE OF SERVICE

I do hereby certify that on this 9th day of September 2005, I have delivered a copy of the foregoing Colorado Public Utilities Commission's Reply to the following addressee at the address stated by depositing same in the United States mail, first class postage prepaid:

Thomas J. Burke, Jr.
JONES & KELLER
1625 Broadway – Suite 1600
Denver, CO 80202

and to the following addressee at the address stated by hand delivery:

Fritz R. Kahn
FRITZ R. KAHN, P.C.
1920 N Street, NW – 8th Floor
Washington, DC 20036-1601

